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APPENDIX

IN THE

Supreme Court of the United States

OCTOBER TERM, 1974

No. 73-1977

ALYESKA PIPELINE SERVICE COMPANY,
Petitioner,

v.

THE WILDERNESS SOCIETY, ENVIRONMENTAL DEFENSE FUND, INC., AND FRIENDS OF THE EARTH,
Respondents.

On Writ of Certiorari To The United States Court of Appeals For The District of Columbia Circuit

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PETITION FOR WRIT OF CERTIORARI FILED ON JULY 3, 1974 CERTIORARI GRANTED OCTOBER 15, 1974

INDEX

Page

Docket entries of the United States Court of Appeals for the District of Columbia 2

Docket entries of the United States District Court for the District of Columbia 12

Letter from Kenneth P. Fountain to Russell E. Train, June 10, 1969 41

United States Department of the Interior, Trans Alaska Pipeline System Stipulations, September 1969 49

Federal Task Force on Alaskan Oil Development, A Preliminary Report to the President, September 15, 1969 79

Application for Pipeline Right-of-Way, December 22, 1969 89

Federal Task Force on Alaskan Oil Development, Chronology, April 1969 through February 1970.. 99

Rogers C. B. Morton, Statement of Reasons for Approval, Application for Pipeline Right-of-Way and Ancillary Land Uses—Prudhoe Bay to Valdez, Alaska; Application by State of Alaska for Right-of-Way for Highway, May 11, 1972 105

Motion of Plaintiffs for Partial Summary Judgment, May 12, 1972 139

Defendant's Motion to Place Plaintiffs' Motion for Partial Summary Judgment in Abeyance and Supporting Memorandum, May 17, 1972 140

Defendants' Motion to Withhold Consideration of Motion for Partial Summary Judgment by Plaintiff, Wilderness Society, et al. and Supporting Memorandum, May 19, 1972 153

Plaintiffs Response to Defendant's Motion to Defer Consideration of Plaintiffs' Motion for Partial Summary Judgment Under the Mineral Leasing Act, May 19, 1972 160

Page

Brief of Appellee Alyeska Pipeline Service Company Covering Mineral Leasing Act and Terminal Facility Issues, July 17, 1972, pp. 35-50 162

Brief of Appellee Alyeska Pipeline Service Company Covering National Environmental Policy Act Issues, July 31, 1972, pp. 6-36 178

Bill of Costs of Appellants, The Wilderness Society, Environmental Defense Fund, Inc. and Friends of the Earth, February 23, 1973 209

Notation: The Opinion and Judgment of the United States Court of Appeals are included in the Petition for a Writ of Certiorari, App. 1a-40a, and are reported at 495 F.2d at 1026 (1974).

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ALYESKA PIPELINE SERVICE COMPANY,
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APPENDIX

DOCKET ENTRIES

UNITED STATES COURT OF APPEALS
FOR THE
DISTRICT OF COLUMBIA CIRCUIT

No. 72-1796

ALYESKA PIPELINE SERVICE COMPANY, *Petitioner*

v.

THE WILDERNESS SOCIETY, ENVIRONMENTAL DEFENSE FUND, INC., AND FRIENDS OF THE EARTH, *Respondents*

DATE	FILINGS—PROCEEDINGS
8-22-72	Certified Original Preliminary Record (2 vols. transcript) (n-5)
8-23-72	4—Appellant's motion for consideration on briefs filed below and for expedited hearing (p-23)
8-25-72	Certified Original Record (volumes 1-12) (8 volumes of transcripts, 3 boxes containing depositions, briefs and exhibits) (n-3)
8-29-72	4—Response of Federal appellees to appellants' motion for consideration on briefs filed below, and for expedited hearing, and suggestion that such hearing be held en banc (m-29)
8-29-72	4—Response of State of Alaska to motion to expedite hearing and for consideration of briefs below (m-29)
8-29-72	4—Response of Alyeska Pipeline Service Company to motion to expedite appeal and for consideration of briefs below, and to the government's suggestion for hearing en banc (m-29)
9-1-72	Per Curiam order sua sponte, consolidating with Nos. 72-1797 and 72-1798, for all purposes; granting appellants' motions for consideration on briefs filed below and expedited hearing, and counsel for the parties shall promptly file with this Court 20 copies of the briefs filed in the District Court; suggestions for hearing en banc are submitted and a ruling thereon will be made promptly; Leventhal and Wilkey, CJ
9-6-72	4—Motion of United Distribution Companies for leave to file brief for amicus curiae (m-6)
9-12-72	20—Brief for Appellants David Anderson and the Canadian Wildlife Federation (m-12)
9-12-72	20—Reply brief for Appellants David Anderson and the Canadian Wildlife Federation (m-12)
9-12-72	20—Brief for appellee State of Alaska (m-12)
9-13-72	20—Brief for appellee Morton (m-13)
*9-12-72	20—District Court Brief for State of Alaska (National Environmental Policy Act issues in District Court filed pursuant to order 9-1-72) (m-12)
9-13-72	20—Appellees' Morton memorandum of points and authorities in response to issues raised in District Court motion for partial summary judgment filed May 12, 1972 (filed in brief form pursuant to order 9-1-72) (m-13)
9-14-72	20—Appellee's Alyeska Pipeline Service Co., brief filed in the District Court (filed in Brief form pursuant to order 9-1-72) (National Environmental Policy Act Issues) (m-14)
9-14-72	20—Appellee's Alyeska Pipeline Service Co., brief filed in the District Court (Mineral Leasing Act and Terminal Facility issues) (filed in Brief form pursuant to order 9-1-72) (m-14)
9-14-72	10—Volumes of supporting documents to appellee Alyeska Pipeline Service Co., brief (covering Mineral Leasing Act and Terminal Facility Issues)
9-14-72	10—Volumes of supporting documents to appellee Alyeska Pipeline Service Co., brief (covering National Environmental Policy Act Issues)
9-15-72	Per Curiam order en banc granting suggestion that cases be considered by the Court sitting en banc and cases are hereby scheduled for argument before the Court sitting en banc at 10:00 a.m. on Friday, October 6, 1972; CJ Bazelon, Wright, McGowan, Tamm, Lev-

enthal, Robinson, MacKinnon, Robb and Wilkey, CJ; CJ McGowan did not participate in order

9-18-72 10—Joint Appendix

9-21-72 Per Curiam order granting motion of United Distribution Companies for leave to participate amicus curiae and to proceed on the memorandum and motion by Cordova District Fisheries Union to correct misnomer of appellant's brief. CJ Bazelon, Wright, McGowan, Leventhal, Robinson, MacKinnon, Robb and Wilkey: Judge McGowan did not participate

DATE FILINGS—PROCEEDINGS

9-21-72 Per Curiam order granting petition of United Distribution Companies for leave to participate amicus curiae and to proceed on the memorandum amicus curiae filed below, also motion by the Cordova District Fisheries Union to correct Misnomer of appellant's brief. CJ Bazelon, Wright, McGowan, Tamm, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ, Judge McGowan did not participate in order

9-21-72 20—briefs amicus curiae of United Distribution Companies (m-6)

9-21-72 11—Joint motion of all parties to extend time for oral argument and for more than two counsel to be heard for each side

9-25-72 4—Motion of United Distribution Companies for leave to withdraw the name of one of the companies listed as a member of the United Distribution Companies (m-25)

10-2-72 Per Curiam order granting motion of United Distribution Companies for leave to withdraw the name of Illinois Light Company as a member of United Distribution Companies. CJ Bazelon, Wright, McGowan, Tamm, Leventhal, Robinson, MacKinnon, Robb, and Wilkey, CJ, Circuit Judge McGowan did not participate in order

10-2-72 Per Curiam order granting joint motion for additional time and for more than two counsel to be heard

for each side; amending order of September 15, 1972 to reflect the time of oral argument to be 9:30 a.m. instead of 10:00 a.m., CJ Bazelon, Wright, McGowan, Tamm, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ; Circuit Judge McGowan did not participate in order

10-3-72 4—Motion of Alyeska Pipeline Service Co., for leave to file supplemental joint appendix (m-3)

10-6-72 Argued before CJ Bazelon, Wright, Tamm, Leventhal, Robinson, MacKinnon and Wilkey, CJ, the court announced that Circuit Judge Robb is a member of the en banc court but is unable to be present, the case will be submitted to him on the briefs and tape recording; on motion by Mr. Thomas F. Hogan, Mr. Warren W. Matthews, Jr. a member of the bar of the Supreme Court of Alaska was allowed to argue pro hac vice for appellant, Cordova District Fisheries Union; on motion by Mr. William H. Allen, Mr. John E. Havelock a member of the Supreme Court of Alaska was allowed to argue for appellee State of Alaska; counsel for the parties were granted leave to file the transcript of the argument in the District Court

10-18-72 Order per CJ Bazelon en banc, granting joint motion for permission to file a supplement joint appendix and Clerk is directed to file the supplemental joint appendix lodged herein on October 3rd; CJ Bazelon, and Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

10-18-72 10—Joint supplemental appendix (

10-30-72 Per Curiam order directing Clerk to file in these consolidated cases the letter of October 4, 1972 from counsel for United Distribution Co., requesting that the name of Consolidated Natural Gas System, and affiliates, together with the name of their attorney, Mr. H. P. Sullivan, be expunged from the memorandum amicus curiae of United Distribution Companies filed on July 31, 1972; the request is granted; CJ Bazelon

and Wright, Leventhal, Robinson, Robb and Wilkey, CJ

10-30-72 Letter dated October 4, 1972, from United Distribution Co.—granted

11-15-72 4—joint motion for consolidation of numbers and captions in opinion

11-30-72 4—appellees' motion for leave to file supplemental information (m-30)

12-4-72 4—Response of the Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth to secretary's motion for leave to file supplemental information (m-??)

12-11-72 Per Curiam order by the Clerk for the Court granting motion of the Secretary of the Interior for leave to file supplemental information and Clerk is directed to file Supplemental information

12-11-72 4—Supplemental information for the Secretary of Interior (m-20)

DATE FILINGS—PROCEEDINGS

1-5-73 Order per CJ Bazelon granting joint motion for consolidation of numbers and captions and the caption in the consolidated cases is hereby amended to read as follows; Nos. 72-1796, 72-1797 and 72-1798 The Wilderness Society, Environmental Defense Fund, Inc., Friends of the Earth, and David Anderson, Canadian Wild Life Federation and The Cordova District Fisheries Union, Appellants v. Rogers C. B. Morton, Secretary of the Interior, Earl L. Butz, Secretary of Agriculture and Alyeska Pipeline Service Company, and State of Alaska

2-9-73 Opinion for the Court by Circuit Judge Wright.

2-9-73 Opinion by Circuit Judge MacKinnon, Concurring in part and dissenting in part.

2-9-73 Opinion by Circuit Judge Robb, concurring in part and dissenting in part.

2-9-73 Opinion by Circuit Judge Wilkey, concurring in part and dissenting in part.

2-9-73 Judgment vacating judgment of the District Court and remanding case for further consideration (n)

2-21-73 Receipt dated February 21, 1973 from the Clerk, District Court for the twelve volumes of original record with reporter's transcripts (8 vols.) and three boxes of depositions, briefs and exhibits also preliminary record with reporter's transcript (2 vols.)

2-23-73 1—Bill of Costs of the Wilderness Society, Environmental Defense Fund, Inc., and The Friends of the Earth (p-23)

3-1-73 4—Appellee's motion for stay of Mandate Pending application for a writ of Certiorari (p-1)

3-2-73 4—Appellee's Alyeska Pipeline Service Co. motion to defer action on Appellants' bill of costs (p-2)

3-6-73 4—Appellants' opposition to motion of Alyeska Pipeline Service Company for stay of Mandate and Deferal of Action Costs (p-6)

3-7-73 4—Motion of Federal Appellee to file response to the appellants' bill of costs time having expired (m-7)

3-19-73 Notice of filing certiorari in Supreme Court on March 9, 1973, in S.C. # 72-1227, 72-1228, and 72-1229

3-27-73 Per Curiam order en banc granting motions of appellee Alyeska Pipeline Service Co. for stay of mandate pending application to the Supreme Court for a writ of certiorari motion of appellee Alyeska Pipeline Service Co. for deferral action on appellants' bill of costs; motion for permission to file a response by the Federal Appellees to appellants' bill of costs out of time; Clerk is directed to stay the issuance of the mandate for a period of 30 days, the stay granted herein shall be subject to the provisions of Rule 41 (b) of the FRAP; CJ Bazelon; and Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

3-27-73 4—Response by the Federal appellees to the appellant's bill of costs (m-7)

4-5-73 Certified Copy of Supreme Court denying certiorari on April 2, 1973 in S.C. #72-1227, 72-1228 and 72-1229

4-9-73 4—Appellee's Alyeska Pipe Line Service Co. motion to set time to file reply to Bill of Costs to April 20th (p-9)

4-19-73 Per Curiam order en banc granting appellee's (Alyeska Pipeline Service Co.) motion to set the time for filing responses to appellants' bill of costs and the time for filing responses to the bills of costs filed on behalf of appellants' is extend to April 20, 1973; CJ Bazelon; Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

4-20-73 10—Federal Appellees' supplemental response to the bills of costs filed by appellants (p-20)

DATE FILINGS—PROCEEDINGS

4-20-73 10—Alyeska Pipeline Service Co., response to appellants' bill of costs (m-20)

4-20-73 10—State of Alaska's response to appellants' bill of costs (p-20)

4-25-73 10—Motion of Wilderness Society Environmental Defense Fund, Inc. and The Friends of the Earth to extend time to file response to appellees' bill of costs (p-25)

(B)4-30-73 Clerk's order granting motion of appellants The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth to extend time to file responses to Bill of Costs to May 2nd

(I)5-2-73 4—Response of The Wilderness Society, EDF, Inc., and Friends of the Earth to the bill of costs (p-2)

(S)5-4-73 4—Response by Appellant, Cordova District Fisheries Union, to Appellees' oppositions to Cordova District Fisheries Union Bill of Costs (m-2) (OK HK)

(M)5-9-73 Per Curiam order en banc that Clerk is directed to issue the opinion and certified copy of this Court's judgment to the District Court forthwith; CJ Bazelon, and Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

5-9-73 Copy of opinion and certified copy of judgment issued to the District Court.

(S)5-23-73 10—Appellants' motion for leave to file supplemental information (Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth) (p-23)

(M)6-6-73 Order Per CJ Bazelon granting appellants' motion for leave to file supplemental information; and the Clerk is directed to file the opinion of the U.S. Supreme Court, in Hall, et al v. Cole, No. 72-630

(M)6-6-73 10—Supreme Court opinion (m-23)

(S)6-11-73 10—Appellants' motion for leave to file supplemental information (Wilderness Society, Environmental Defense Fund, and Friends of the Earth) (m-11)

(M)6-13-73 Per Curiam order en banc, sua sponte, that the pending motions with respect to appellants' bill of costs shall be argued before the Court sitting en banc at 11:00 A.M. on Wednesday, July 11, 1973; each side be allotted 15 minutes for oral argument; the total time allotted for argument is 30 minutes; CJ Bazelon, and Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

(M)6-26-73 Per Curiam order en banc granting appellant's motion for leave to file supplemental information; CJ Bazelon; and Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

(M)7-10-73 10—Appellants' motion for leave to file supplemental information (p-10)

(B)7-11-73 Per Curiam order en banc granting appellants' motion for leave to file supplemental information; Bazelon, CJ; Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

(B)7-11-73 1—Supplemental information

(M)7-11-73 Reargued before CJ Bazelon, Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ; the case was called for hearing on motions for bill of costs filed by Friends of the Earth and The Cordova District Fisheries Union

(S)7-13-73 10—Appellants' motion for leave to file supplemental information (m-13)

(B)7-26-73 Order per CJ Bazelon granting appellants' motion for leave to file copy of order entered in the United States District Court for the District of Columbia in *Pyramid Lake Paiute Tribe of Indians* v. *Morton*, Civil Action 2506-70, D.D.C. June 22, 1973

(B)7-26-73 4—Supplemental information (order of *Pyramid Lake Paiute Tribe of Indians* v. *Morton*)

(S)10-15-73 Letter from Appellants advising of additional authorities pursuant to local Rule 8(g)

(S)11-19-73 11—Letter from Appellants' advising of additional authorities pursuant to local Rule 8(g)

(G)1-25-74 Letter from Dennis M. Flannery advising of additional authorities pursuant to local Rule 8(g)

DATE FILINGS—PROCEEDINGS

(M)3-21-74 Per Curiam order en banc, sua sponte, that the Clerk of the District Court is directed to certify and transmit Item Nos. 61 thru 80 to this Court as a supplemental record on appeal as promptly as the business of his office permits: CJ Bazelon; Wright, Leventhal, Robinson, MacKinnon, Robb and Wilkey, CJ

(G)3-21-74 Certified Original Supplemental Record (no transcript) (n)

4-4-74 Opinion for the Court filed by Circuit Judge Wright.

4-4-74 Dissenting opinion filed by Circuit Judge MacKinnon.

4-4-74 Dissenting opinion in which Circuit Judges MacKinnon and Robb join, filed by Circuit Judge Wilkey.

4-4-74 Per Curiam order by the Clerk approving all expenses requested by appellants. Costs therefore are taxed in the amount of $11,051.65 against Alyeska Pipeline Service, State of Alaska and USA. Bill of costs is remanded to District Court for setting of Attorneys fees in accordance with the opinion of this Court filed this date.

4-11-74 Receipt dated April 9, 1974 from the Clerk, District for the supplemental record containing exhibits

(P)4-29-74 Certified copies of orders and opinion issued to District Court.

(P)4-29-74 Certified bill of costs for appellants Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth issued to District Court.

6-12-74 Order per Circuit Judge Wright amending opinion of 4-4-74.

(L)7-8-74 Notice from Supreme Court in filing petition for certiorari in S.C. #73-1977 on July 3, 1974

(L)10-23-74 Certified copy of order from Supreme Court granting petition for certiorari in S.C. #73-1977 on October 15, 1974

(G)11-21-74 Letter from Clerk of Supreme Court requesting original record and pleadings before this court

(M)12-9-74 Preliminary Record—(2 vol. of transcript) Original Record (vols. I-V) (8 vols. of transcript with the original record and supplemental Record (Exhibits —2 boxes) returned by the Clerk of the U.S. District Court

(M)12-2-74 Order per CJ Bazelon the Clerk of the District Court for the District of Columbia shall return the record to this Court as promptly as the business of his office permits; and the Clerk of this Court shall forward the record to the Supreme Court as promptly as the business of his office permits

(M)12-2-74 Certified copy of the above order sent to Clerk, U.S. District Court

(M)12-2-74 Order per CJ Bazelon that the Clerk is directed to prepare a certified record, consisting of the following; 1. a copy of the appendices filed September 13, 1974; 2. a copy of the Joint appendix filed September 18, 1972; 3. a copy of the supplemental appendix filed October 18, 1972; 4. a copy of the opinion and judgment filed February 9, 1973; 5. a copy of the opinions and order filed April 4, 1974; 6. a copy of this

order; the Clerk is directed to transmit the certified record to the Clerk of the Supreme Court

(M)12-10-74 Certified copy of the above order and the Preliminary Record (2 vol. of trans.) Original Record vols. I-V (8 vol. of trans.) and Supplemental record (2 boxes of exhibits) sent to Clerk, Supreme Court

(M)12-10-74 Receipt returned from Clerk, Supreme Court for all of the above records, etc.

DOCKET ENTRIES

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

WILDERNESS SOCIETY V. HICKEL

(CA: No. 928-70)

DATE	PROCEEDINGS
1970	Deposit for cost by
Mar. 26	Complaint, appearance; Appendix A, B, C, D; filed.
Mar. 26	Summons, copies (3) and copies (3) of Complaint issued Deft 3-27; DA 3-31; AG 3-27-70.
Mar. 26	Motion of pltffs. for Preliminary Injunction; Memorandum of Law; Exhibit. M.C.; filed.
Mar. 26	Motion of pltffs. to consolidate; P & A's. M.C.; filed.
Mar. 26	Certificate of Service, March 26, 1970; filed.
Mar. 30	Affidavits (3); p/s 3/30/70; filed.
Mar. 31	Affidavits (4) by pltf.; p/s 3/31/70; filed.
Mar. 31	Notice by pltfs. of hearing; p/s 3/31/70; filed.
Apr. 1	Affidavits (5) by pltfs.; p/s 4/1/70; filed.
Apr. 1	Affidavit of John W. Thomson; c/s 3/31/70; filed.
Apr. 1	Motion of pltfs. for temporary restraining order; exhibit; affidavit; P&A; with exhibit; p/s 4/1/70; filed.
Apr. 1	Affidavit of Gary W. Crosby; p/s 4/1/70; filed.
Apr. 2	Stipulation extending time for deft. to respond to motion for preliminary injunction to 4/7/70; filed.

Apr. 3	Affidavit of Sigurd F. Olson; c/m 4/3/70; filed.
Apr. 3	Motion of pltfs. for temporary restraining order, endorsed: "Balancing the Equities as it must and assuming standing to sue, the application is denied. Hearing on preliminary injunction set for 4-13-70" (fiat) (N) McGuire, J.
Apr. 6	Notice of appeal by pltfs. from order of 4-3-70; copy mailed to Herbert Pittle; deposit $5.00 by Moorman; filed.
Apr. 6	Copy of corrected page 18 of memorandum of law in support of motion for preliminary injunction by pltf.; c/m 4-2-70; filed.
Apr. 6	Amended complaint; appendix A, B, C, D, & E; p/s 4-6-70; filed.
Apr. 7	Transcript of proceeding 4-3-70; Reporter Joan E. Warren (Court's Copy); filed.
Apr. 7	Brief by deft. in opposition to motion for preliminary injunction; p/s 4/7/70; affidavits of Jack O. Horton with exhibits 1 thru 23; affidavit of Jack O. Horton # 2; affidavit of Robert S. Burd, Spencer H. Smith, William T. Pecola, Keith H. Miller, Robert L. Beardsley, W. G. Stroecker, R. W. Groff, Edgar M. Clausen, M. B. Ringstad, C. W. Baer, E. S. Albright, James A. Thompson, Jr. and Thomas J. Moore and William I. Waugaman; filed.
1970	
Apr. 9	Reply of pltfs. and rehearing memorandum; Exhibit A, B, C; attachments (2) to affidavit; c/m 4/9/70; filed.
Apr. 16	Objections of defendant to plaintiff's proposed form of preliminary injunction; c/m 4-16-70; M.C.; filed.
Apr. 15	Stipulation of voluntary dismissal of appeal from denial of motion for temporary restraining order. (N) N/371; McGuire, J.
Apr. 22	Objections of deft. to proposed findings of fact and conclusions of law; c/m 4/22; M.C.; filed.

Apr. 24—Injunction undertaking of pltf. in sum of $100.00 with National Surety Corp. approved; filed.

Apr. 23—Proposed Findings of Fact and Conclusions of Law of pltf.; filed.

Apr. 23—Findings of Fact and Conclusions of Law. (N); Hart, J.

Apr. 23—Preliminary injunction $100.00 bond; U.S. Marshall to serve a copy of this Order forthwith. (N) Serv. 4-29-70. Hart, J.

May 20—Interrogatories of pltfs. to deft; c/m 5-19-70; filed.

May 26—Answer of deft. to amended complaint; c/m 5/25; appearance of Herbert Pittle; filed.

May 26—Calendared (AC/N)

May 28—Motion of deft. for enlargement of time to respond to interrogatories; P&A; c/m 5/28; M.C.; filed.

June 2—Opposition of deft. to motion for enlargement of time to respond to interrogatories; p/s 6/2/70; filed.

June 5—Motion of deft. for enlargement of time to answer interrogatories of time to answer interrogatories to June 30, 1970. granted. (fiat) (N) Hart, J.

June 12—Interrogatories of pltf. to deft.; c/m 6/11/70; filed.

June 22—Motion of deft. for enlargement of time to object or answer second set of interrogatories; P&A; c/m 6/19/70; M.C.; filed.

June 30—Objections of deft. to interrogatories; c/m 6/30/70; M.C.; filed.

June 30—Answer of deft. to interrogatories; c/m 6/30/70; filed.

Jul. 13—Stipulation as to corrections to transcript of proceedings on pltfs. motion for preliminary injunction.

Jul. 20—Request of pltf. for deft. to produce for inspection certain documents; c/m 7/17/70; filed.

Jul. 24—Motion of pltfs. to compel answers to interrogatories; P&A; c/m 7/22; M.C.; filed.

DATE PROCEEDINGS

1970

Jul. 27—Motion of deft. for enlargement of time to object to or answer second set of interrogatories; P&A; c/m 7-27-70; M.C.; filed.

Jul. 31—Stipulation extending time for deft. to oppose motion to compel answers to first set of interrogatories to August 10, 1970; filed.

Aug. 10—Opposition of deft. to motion to compel answers to interrogatories; c/m 8/10/70; filed.

Aug. 12—Supplemental answers of deft. to interrogatories; c/m 8/11/70; filed.

Aug. 20—Answer of deft. to request to produce; c/m 8/17; filed.

Aug. 20—Request of pltfs. to admit, pursuant to Rule 36, that the letter appearing in the Fairbanks Daily News Miner on July 20, 1970 is a true copy of a letter from deft. to William Randolph Hearst, Jr.; exhibit; c/m 8/19; filed.

Sep. 1—Motion of deft. for enlargement of time to object or answer second set of interrogatories; P&A; c/m 8/28; M.C.; filed.

Sep. 10—Transcript of proceedings—pages 1-50; E. Alfred Kaufman, Reporter (Court's Copy); filed.

Sep. 30—Request of pltfs. for production of documents; appendix 1; c/m 9/25/70; filed.

Oct. 6—Appearance of Victor H. Kramer as counsel for pltfs. c/m 10-1-70; filed.

Oct. 26—Answer of deft. to pltfs. request to produce; c/m 10-23-70; filed.

Oct. 28—Motion of deft. for enlargement of time to respond to interrogatories; P&A; c/m 10-27-70; M.C.; filed.

Oct. 28—Answer of deft. to interrogatories (II) (Partial); Appendix A, B, C, and D; c/m 10-27-70; filed.

Oct. 28—Objections of deft. to interrogatories; P&A; c/m 10-27-70; filed.

Nov. 10—Motion of pltfs. to compel answers to interrogatories and inspection of documents; P&A; affidavits (3); c/m 11-10-70; filed.

Nov. 24—Response of deft. to pltf's. motion to compel answers to interrogatories and inspection of documents; exhibits (2); c/m 11-23-70; filed.

Nov. 30—Answers of deft. to interrogatories; c/m 11-27-70; filed.

Dec. 1—Memorandum of pltfs. in reply to defts. response to pltfs. motion to compel answers to interrogatories and inspection of documents; affidavit; exhibits (2); c/m 11-30-70; filed.

Dec. 8—Supplemental memorandum of pltfs. in support of their motion to compel answers to interrogatories and inspection of documents; c/m 12-8-70; filed.

DATE	PROCEEDINGS
1970	
Dec. 15	Supplemental motion of pltfs. to compel answers to pltfs. interrogatories; P&A; c/m 12-15-70; M.C.; filed.
Dec. 15	Request of pltfs. to supplement responses to interrogatories and requests to produce; c/m 12-15-70; filed.
Dec. 30	Opposition of deft. to pltfs. supplemental motion to compel answers to interrogatories and inspection of documents; c/m 12-24-70; filed.
1971	
Jan. 8	All discovery motions continued to 2-26-71 at 1:30 p.m.; filed.
Feb. 22	Interrogatories of pltf. to deft. as amended; c/m 2-19-71; filed.
Feb. 23	Consent order directing deft. answer plaintiffs interrogatories (II) not later than 4-22-71; plaintiffs may file motion to compel production of documents as to which a claim of privilege has been asserted. (N) Hart, J.
Apr. 23	Answer of deft. to interrogatories (II) as amended; c/m 4-22-71; filed.

May 4—Consent order extending time for pltfs. to request production of documents to and including 5-13-71. (N) Hart, J.

May 13—Request of pltfs. to produce documents for inspection and copying; p/s 5-13-71; filed.

May 27—Response of deft. to pltfs. request to produce; filed.

*May 27—Consent order enlarging time for deft. to produce all documents identified in pltfs. request to produce to and including the times specified in said response for each document. (N) Hart, J.

June 29—Certificate of service of exhibits and motion to change venue mailed 6-29-71; exhibits A, B, C and exhibit 1; filed.

*June 28—Motion of deft. to change venue; P&A; c/m 6-28-71; M.C.; filed.

July 2—Motion of pltfs. for enlargement of time to respond to motion for change of venue; P&A; p/s 7-2-71; M.C.; filed.

July 6—Motion of pltfs. for enlargement of time to respond to defts. motion to change venue to 7-19-71, granted. (Fiat) (N) Hart, J.

July 19—Memorandum of P & A of Pltfs. in opposition to motion for change of venue; attachments a, b, c, d, e, f, & g; affidavits (5); P/S 7-19-71; filed.

DATE	PROCEEDINGS
1971	
July 27	Response of deft. to pltfs. memorandum of P&A in opposition to motion to change venue; attachment 1; c/m 7-27-71; filed.
July 30	Supplemental memorandum of pltf. in opposition to motion for change of venue; p/s 7-30-71; filed.
July 30	Affidavit of Peter LaBate; filed.
July 30	Motion of deft. to change venue argued and denied. (OTBP) (Reporter G. Nevitt) Hart, J.
Aug. 5	Appearance of Dennis M. Flannery as counsel for pltfs. and also Saunders Cook Hillyer; filed.

Aug. 9—Order denying defts. motion for change of venue. (N) Hart, J.

Aug. 13—Certificate of mailing; copy of praecipe filed 8-5-71 on 8-10-71; filed.

Aug. 20—Motion of Alyeska Pipeline Service Company to intervene as a deft.; attachment 1; P & A; appendix A & B; Exhibit; P/S 8-20-71; M.C.; filed.

Aug. 24—Appearance of John F. Drenelt counsel for pltfs.; c/m 8-24-71; filed.

Aug. 27—Memorandum by pltfs. in response to motion of Alyeska Pipeline Service Company to intervene as a deft.; Exhibit A & B; c/m 8-27-71; filed.

Aug. 30—Motion of the State of Alaska for leave to Intervene; P & A's; Exhibit; Affidavit; c/m 8-20-71; M.C.; appearance of Mr. Kenneth Frank, Asst. Atty. Gen.; (State Capitol, Pouch, K Juneau, Alaska.) filed.

Sep. 7—Memorandum of pltf. in response to motion of State of Alaska to intervene; Exhibit A; c/m 9-7-71; filed.

Sep. 8—Appearance of William H. Allen and Richard D. Copaken as attorneys for the State of Alaska, intervenor; filed.

Sep. 10—Order motion of State of Alaska to intervene as a deft. on condition that Alaska file pleading no later than 9-30-71. (N) Hart, J.

Sep. 20—Order granting Alyeska Pipeline Service Co.'s motion to intervene; for production of documents. (N) Jones, J.

Sep. 30—Answer of intervenor, State of Alaska, to amended complaint; cross-claim vs. deft. C. B. Morton; c/m 9-30-71; filed.

Oct. 14—Request of pltf. for production of documents; c/m 10-14-71; filed.

Oct. 14—Request of pltf. for admissions; c/m 10-14-71; filed.

DATE PROCEEDINGS

1971

Nov. 11—Notice of pltfs. to take deposition of Dr. Frederick J. Sanger; c/m 11-11-71; filed.

Nov. 15—Motion of David Anderson and the Canadian Wildlife Federation for leave to intervene; P&A; c/m 11-15-71; M.C. Deposit $5.00 by Berlin; appearance of Berlin, Roisman and Kessler; filed.

Nov. 15—Motion of deft. for order determining that action be maintained as a class action; P&A; c/m 11-15-71; M.C.; filed.

Nov. 16—Motion of pltf. to clarify preliminary injunction; P&A; table of content; memorandum; exhibits A-G; p/s 11-16-71; draft environmental statement; M.C.; filed.

Nov. 17—Motion of pltfs. for protective order; P&A; affidavit; c/m 11-17-71; M.C.; filed.

Nov. 17—Answer of defts. to pltfs. request for production of documents; c/m 11-16-71; filed.

Nov. 17—Answer of defts. to request for admissions; c/m 11-16-71; filed.

Nov. 18—Response of pltfs. to defts. motion for protective order; attachment; affidavit; c/m 11-18-71; filed.

Nov. 18—Transcript of proceedings 11-18-71, pages 1-8. Reporter E. Kaufman. (Clerk's copy); filed.

Nov. 19—Order directing that deposition of Dr. Sanger not be taken on 11-19-71 and not until after he has completed his work on NEPA impact statement; counsel for deft. shall then notify pltfs. for said deposition. (N) Hart, J.

Nov. 22—Motion of deft. #1 for extension of time to respond to motion to clarify preliminary injunction; c/m 11-19-71; M.C.; filed.

Nov. 22—Motion of deft. #1 for extension of time to respond to motion to intervene; c/m 11-19-71; M.C.; filed.

Nov. 22—Motion of intervenor, State of Alaska for extension of time to respond to pltfs. motion for preliminary injunction; c/m 11-22-71; M.C.; filed.

Nov. 22—Motion of intervenor, State of Alaska to extend time to respond to motion by David Anderson and Canadian Wildlife Federation to intervene; c/m 11-22-71; M.C.; filed.

DATE	PROCEEDINGS

1971

Nov. 22—Motion of deft. Alyeska Pipeline for extension of time to respond to motion by David Anderson, et al to intervene; c/m 11-22-71; M.C.; filed.

Nov. 22—Motion of deft. Alyeska Pipeline for extension of time to respond to pltfs. motion to clarify preliminary injunction; c/m 11-22-71; M.C.; filed.

Nov. 23—Motion of pltfs. for extension of time to respond to motion by David Anderson and Canadian Wildlife to intervene; c/m 11-23-71; M.C.; filed.

Nov. 23—Motion of pltfs. for extension of time to respond to defts. motion for order determining that action shall be maintained as a class action; c/m 11-23-71; M.C.; filed.

Nov. 23—Memorandum of intervenor, State of Alaska, in response to defts. motion for order determining that action shall be maintained as a class action; c/m 11-23-71; filed.

Nov. 23—Memorandum of Points and Authorities submitted by deft. Alyeska Pipeline Service Co. in support of defts. motion to have this action maintained as a class action; appendix 1; c/m 11-23-71; filed.

Nov. 23—Motion of intervenor, State of Alaska, for extension of time to 11-23-71 to respond to motion of David Anderson and Canadian Wildlife Federation to intervene granted. (Fiat)(N) Hart, J.

Nov. 23—Motion of deft. Rogers C. B. Morton for extension to 12-10-71 of time to respond to pltfs. motion to clarify preliminary injunction granted. (Fiat)(N) Hart, J.

Nov. 23—Motion of deft. Alyeska Pipeline Service for extension of time to 11-30-71 to respond to motion of

David Anderson and The Canadian Wildlife Federation to intervene. (Fiat)(N) Hart, J.

Nov. 23—Motion of deft. Rogers C. B. Morton for extension of time to 11-30-71 to respond to motion of David Anderson and the Canadian Wildlife Federation to intervene. (Fiat)(N) Hart, J.

Nov. 23—Motion of intervenor, State of Alaska, to extend to 12-10-71 time to respond to pltfs. motion to clarify preliminary injunction. (Fiat)(N) Hart, J.

DATE	PROCEEDINGS

1971

Nov. 23—Motion of deft. Alyeska Pipeline Service to extend to 12-1-71 time to respond to pltfs. motion to clarify preliminary injunction (Fiat)(N); filed.

Nov. 29—Transcript of proceedings 7-30-71, vol. 1, pages 1-41. Gerald Nevitt, Reporter (Court's copy); filed.

Nov. 30—Memorandum of pltfs. in response to motion by David Anderson and the Canadian Wildlife Federation to intervene as plts.; c/m 11-30-71; filed.

Nov. 30—Memorandum of pltfs. in opposition to motion for order determining that this action shall be maintained as a class action; c/m 11-30-71; filed.

Nov. 30—Memo of intervenor State of Alaska in opposition to motion of David Anderson and Canadian Wildlife to intervene; c/m 11-30-71; filed.

Nov. 30—Memo of Alyeska Pipeline Service Co. in opposition to motion by David Anderson and Canadian Wildlife to intervene; c/m 11-30-71; filed.

Nov. 30—Memo of deft. in opposition to motion of David Anderson and Canadian Wildlife to intervene; filed.

Dec. 1—Attachment to memorandum of Alyeska Pipeline Service Co. in opposition to motion by David Anderson and the Canadian Wildlife Federation to intervene; filed.

Dec. 1—Memorandum of points and authorities of Alyeska Pipeline Service Co. in opposition to pltfs. motion to

clarify preliminary injunction; appendix 1; c/m 12-1-71; filed.

Dec. 2—Motion of David Anderson and the Canadian Wildlife Federation to intervene, denied. (Fiat)(N) Hart, J.

Dec. 3—Answer of deft. Morton to cross-claim of intervenor State of Alaska; c/m 12-2-71; filed.

Dec. 6—Motion of David Anderson and the Canadian Wildlife Federation for rehearing and reconsideration of the denial of their motion for leave to intervene; P&A; exhibit; c/m 12-3-71; M.C.; filed.

Dec. 7—Notice of pltfs. to take deposition of Russell E. Train; c/s 12-7-71; filed.

DATE	PROCEEDINGS

1971

Dec. 7—Notice of pltfs. to take deposition of Burton W. Silcock; c/s 12-7-71; filed.

Dec. 7—Notice of pltfs. to take depositions of individuals designated by Dept. of Interior; c/s 12-7-71; filed.

Dec. 7—Notice of pltfs. to take deposition of William T. Pecora; c/s 12-7-71; filed.

Dec. 7—Notice of pltfs. to take deposition of Jack O. Horton; c/s 12-7-71; filed.

Dec. 8—Motion of pltfs. for extension of time in which to file reply memorandum; P&A's; c/m 12-7-71; M.C.; filed.

Dec. 9—Memorandum of P&A's by defts. in opposition to motion to clarify preliminary injunction; c/m 12-9-71; filed.

Dec. 9—Motion of pltfs. for extension of time to file reply memorandum, granted. (Fiat)(N) Hart, J.

Dec. 10—Memorandum of intervenor State of Alaska in opposition to pltfs. motion to clarify injunction; c/s 12-10-71; filed.

Dec. 13—Motion of deft. for protective order quashing notices for taking of depositions; P&A; affidavit; c/m 12-10-71; M.C.; filed.

Dec. 13—Opposition of pltfs. to motion for protective order quashing notices for taking of depositions; exhibits (2); c/m 12-13-71; filed.

Dec. 13—Response of Alyeska Pipeline Service Co. to motion for protective order; appendix I; c/m 12-13-71; filed.

Dec. 15—Reply of pltfs. to defts. opposition to motion to clarify preliminary injunction; exhibits A&B; c/m 12-15-71; filed.

Dec. 15—Order granting motion of deft. for a protective order; depositions not be noticed or taken until after filing of final section 102. (N) Hart, J.

Dec. 23—Transcript of proceedings 12-14-71. E. A. Kaufman, Reporter. (Court's copy); filed.

Dec. 29—Appearance of James N. Barnes as attorney for pltfs; c/m 12-29-71; filed.

Jan. 10—Supplemental exhibits (2) to pltfs. motion to clarify preliminary injunction; c/m 1-10-72; filed.

DATE	PROCEEDINGS

1972

Jan. 10—Copy of a letter 1-10-72 to case attorneys from Judge Hart; exhibits A&B and C; filed.

Jan. 18—Order denying Mo. of David Anderson and the Canadian Wildlife Federation for reconsideration of their mo. for leave to intervene. (N) Hart, J.

Jan. 18—Order denying mo. of pltfs. to clarify preliminary injunction. (N) Hart, J.

Jan. 31—Notice of appeal by Intervenors David Anderson and the Canadian Wildlife Federation from order of January 18, 1971. Deposit $5.00 by Berlin copies mailed to Herbert Pittle, Dennis Flannery, John Dienelt, Paul F. Mickey, Quinn O'Connell, John Krodell, John Havelock, and William Allen; filed.

Jan. 31—Preliminary Rec. on appeal delivered to USCA; Deposit by Mr. Berlin $1.00; Receipt from USCA for Prel. rec.; filed.

Feb. 2—Motion of pltfs. to compel production of documents; P & A; Table of cases; memorandum; With exhibits A through F; P S 2-2-72; M.C.; filed.

Feb. 8—Motion of deft. Alyeska Pipeline Service Co. for extension of time to respond to pltfs. motion to compel production of documents; c/m 2/8; M.C.; filed.

Feb. 16—Motion of pltfs. to compel production of documents; P & A; table of cases; memorandum; c/m 2-16-72; M.C.; filed.

Feb. 16—Motion of deft., Alyeska Pipeline for extension of time until Feb. 18, 1972 to respond to motion to compel production of documents, granted. (Fiat)(N) Hart, J.

Feb. 18—Memorandum of Points & Authorities of Alyeska Pipeline Service Co. in opposition to pltfs. motion to compel production of documents; c/m 2-18; filed.

Feb. 23—Answer of deft to plaintiff's motion to compel production of documents; c,/m 2-18-72; filed.

Feb. 24—Order denying pltfs. motion to compel production of documents, filed 2-2-62. (N) Hart, J.

Feb. 25—Opposition of deft's to pltffs' motion for production of a document; c/m 2-24-72; filed.

Mar. 1—Order denying pltfs' motion to compel production of certain documents filed 2-2-72. (N) Hart, J.

Mar. 8—Request of pltfs. for admissions; c/m 3/8; filed.

Mar. 30—Appearance of Thomas B. Stoel Jr. as counsel for plaintiffs; c/m 3-30; filed.

DATE PROCEEDINGS

1972

Apr. 7—Answer of defts. to request for admissions; C/S; 4/7; filed.

Apr. 10—Answer of deft. to pltffs. request for admissions; c/m 3-8-72; filed.

Apr. 26—First amended complaint by intervenors c/m 5-25; filed.

May 11—Order granting motion of Alyeska Pipeline Service Company to consolidate C.A. 861-71 and C.A. 928-70. (N) (Original filed in C.A. 861-71) Hart, J.

May 12—Notice by defts. of intention to issue permit; c/s 5-11.

May 12—Motion of pltfs. for partial summary judgment; statement; P & A with exhibits A Thru E; Exhibit A thru E, 1, 2, 3, F, G, H, 1, 2, 3, 4, 5, 6, I, J, K; C/S 5-12. M.C.

May 16—Response of intervenors to motion for partial summary judgment; c/m 5-16.

May 17—Motion of pltffs. for leave to file amended and supplemental complaint for injunction and Declaratory Judgment; P & A's; Table of Contents; exhibit; c/m 5-16. M.C.

May 17—Motion of defts. Alyeska Pipe Line to place plaintiffs motion for partial summary judgment in obeyance; Table of Authorities; P & A; c/m 5-17. M.C.

May 17—Motion of deft. Alyeska Pipeline Service Company for scheduling of pretrial conference and related procedure; P & A; c/m 5-17.

May 19—Order granting motion of plaintiffs to file an amended and supplemental complaint. (N) Hart, J.

May 19—Motion of defts. to withhold consideration of motion for partial summary judgment by plaintiffs; c/s 5-19. M.C.

May 19—Memorandum of intervenor State of Alaska in response to motion of Alyeska Pipeline Service Company to place plaintiffs motion for partial summary judgment in obeyance; c/s 5-19.

May 19—Memorandum of intervenor State of Alaska in response to motion of Alyeska Pipeline for scheduling of pretrial conference & related procedures; c/s 5-19.

May 19—Motion of defendants for scheduling of pretrial conference & related procedures; P & A; c/s 5-19.

May 19—Motion of plaintiffs to hold in obeyance motion for scheduling of pretrial conference; exhibit; c/m 5-19. M.C.

May 19—Response of plaintiffs to motion to defer consideration of plaintiffs motion for partial summary judgment; c/m 5-19.

DATE PROCEEDINGS

1972

May 19—Response of deft. Cordova District Fisheries Union to motion for partial summary judgment; c/m 5-17.

May 23—Transcript of proceedings 5-19-72; E. A. Kaufman Reporter (Court's copy).

May 26—Interrogatories of deft. to plaintiff.

May 30—Answer of intervenor State of Alaska to amended & supplemental complaint; c/m 5-30.

May 30—Answer to amended and supplemental complaint by deft. Alyeska Pipeline Service Co.; c/m 5-30.

June 2—Certified copy of judgment of USCA reversing judgment opinion attached.

June 5—Deposition of Frederick Sanger for plaintiffs on May 31, 1972.

June 5—Deposition of Knute Johnson on May 24, 1972. (Map attached.)

June 5—Deposition of Ross Mullens on May 24, 1972.

June 5—Deposition of James E. King for plaintiffs on May 24, 1972.

June 5—Deposition of Malcolm S. Isleid for plaintiffs on May 24, 1972.

June 5—Deposition of Edwin L. Chet Chaser for plaintiffs on May 24, 1972.

June 5—Deposition of Steven R. Smith for plaintiffs on May 24, 1972.

June 5—Answer of deft. to first amended complaint of intervenors; c/m 6-5.

June 5—Answer of deft. to amended & supplemental complaint; c/m 6-5.

June 7—Motion of defendants for protective order; P & A; c/m 6-7.

June 7—Petition of United Distribution Companies for leave to intervene; p/s 6-7. Appearance of Tilford A. Jones as counsel for intervenors, Suite 301, 7316 Wisconsin Ave., Bethesda, Md. 20014. $5.00 deposit by Jones.

June 9—Answer of Alyeska Pipeline to first amended complaint.

June 9—Interrogatories of defendant Alyeska Pipeline to intervenor plaintiffs; C/S 6-9.

June 9—Transcript of proceedings 6-7-71, Reporter Joan C. Blair (Court's Copy).

June 13—Petition of United Distribution Company for leave to participate Amicus Curiae; c/m 6-13. M.C.

DATE PROCEEDINGS

1972

June 14—Order directing all parties serve any additional requests for production on or before 6-16-72; on or before 6-19-72 government make available to all parties certain documents; discovery be completed on or before 6-23-72; on or before 7-17-72 Wilderness Society file brief; all defendants file briefs on or before 7-31-72; hearing set 8-14-72 and 8-15-72 if necessary; proposed findings to be filed on or before 8-21-72. (N) Hart, J.

June 15—Interrogatories and request of pltfs. for production of documents; attachment; c/m 6-15-72; filed.

June 19—Request of plaintiff to defendants motion for production under Rule 34; c/m 6-16.

June 19—Request of plaintiff to defendant Alyeska Pipeline for production under Rule 34; affidavit; c/m 6-16.

June 19—Transmittal sheet from USCA returning preliminary record.

* *

June 21—Request of Alyeska Pipeline Service Co., for production of documents; c/m 6-21-72.

June 23—Order on Stipulation for protective order. (N) Hart, J.

* *

June 20—Affidavit of Harold A. Berends; filed. Hart, J.

June 20—Affidavit of Theodore G. Bingham; filed. Hart, J.

June 20—Affidavit of Malcolm L. Johnson; filed. Hart, J.

June 20—Affidavit of Stuart W. Gearhart. c/m 6-16-72. Hart, J.

June 26—Answer of plaintiff Environmental Defense fund to interrogatories; affidavit; c/m 6-26.

June 26—Answer of plaintiffs to interrogatories; Exhibits A, B, C & D; c/m 6-26.

June 29—Response of plaintiff to request of Cordova District Fisheries Unions for production; c/m 6-29-72.

June 29—Answer of intervenor State of Alaska to first amended complaint; c/m 6-29-72.

Jul. 3—Response of Alyeska Pipeline Service Company to interrogatories & request for production of documents; c/m 7-3.

Jul. 10—Answer of intervenor plaintiffs David Anderson & Canadian Wildlife Federation to interrogatories by defendant Alyeska Pipeline Company; Exhibit A, B, C & D; c/m 7-10-72.

DATE	PROCEEDINGS

1972

Jul. 13—Answer of intervenor plaintiffs Goffrey Warden to interrogatories by defendant Alyeska Pipeline Company; affidavit; c/m 7-13-72.

Jul. 17—Motion of David Anderson and the Canadian Wildlife Federation for a final judgment permanently enjoining the approval by the Secretary of Interior of permits implementing the trans Alaska Pipeline System; P & A's; c/m 7-17. M.C.

Jul. 17—Brief of Intervenor State of Alaska on the Mineral Leasing Act Issues and related issues; c/m 7-17.

Jul. 17—Copy of statement of intervenor State of Alaska on the Cordova District Fisheries Union Motion for partial summary judgment; exhibits 1, 2, 3, 4, 5 & 6; c/m 7-17.

Jul. 17—Memorandum of P & A's by defendants in response to issues raised in plaintiffs motion for partial summary judgment filed May 12, 1972; appendix A & B, c/m 5-12.

Jul. 17—Brief of Alyeska Pipeline Service Company covering Mineral leasing act and terminal facility issues; P/S 7-17.

Jul. 17—Brief on National Environmental Policy Act issues by plaintiff; c/m 7-17.

Jul. 17—Appendix by plaintiff, supplemental documents; Vol. I, II & III.

Jul. 17—Alyeska Supporting Documents; Vol. I, II; attachment; A, B, C, D, E, F; Vol. III & IV.

Jul. 19—Memorandum of Cordova District Fisheries Union, appendix.

Jul. 19—Motion of State of Alaska for leave to file amendment of & supplement to its answer; P & A's; exhibit.

Jul. 19—Motion of Alyeska Pipeline Service Company for clarification of Preliminary injunction; P & A's; affidavit (2) with attachment.

Jul. 21—Affidavit of service.

Jul. 25—Brief of Alyeska Pipeline Service Company.

Jul. 26—Opposition of plaintiff to motion to clarify preliminary injunction; c/m 7-26.

Jul. 28—Motion of defendant Alyeska Pipeline Service Company for clarification of preliminary injunction heard & granted. Hart, J.

Jul. 28—Order granting motion of defendant Alyeska Pipeline Service Company for clarification of preliminary injunction of 4-23-70. (X) (See order for details) (Original filed in C.A. 928-70) Hart, J.

DATE	PROCEEDINGS

1972

Jul. 28—Letter dated 7-28-72 to Judge Hart changing wording of paragraph 2 of brief relating to the State Highway adding page 2 to replace corresponding pages of the agreement as per defendants.

Jul. 31—Deposition of Jack Horton, exhibit A; plaintiffs exhibits A thru E.

Jul. 31—Letter dated 6-16-72 from deponent authorizing corrections to deposition; copies of corrections attached.

Jul. 31—Letter dated 5-23-72 from Mr. Porter to Alderson Reporting Company re: corrections.

Jul. 31—Deposition of David A. Brew; exhibits by plaintiffs 1-6.

Jul. 31—Deposition of Frederick Sancer; exhibits 1, 2, 3, 5, 6 & 7 by plaintiff; defendants exhibit #2.

Jul . 31—Deposition of William Vogely; plaintiffs exhibit 1 & 2.

Jul. 31—Deposition of Jared Carter; exhibits by plaintiff 1, 2 & 3; attachments A thru I.

Jul. 31—Deposition of Richard Nehring; exhibits 1 thru 7 by plaintiff.

Jul. 31—Deposition of Rogers C. B. Morton; exhibits by plaintiff 1 thru 5; exhibits by defendant A, B, C & D.

Jul. 31—Letter dated June 28, 1972, to Alderson Reporting Company; re: corrections.

Jul. 31—Letter dated July 26, 1972 to Alderson Reporting Company with affidavit.

Jul. 31—Letter dated July 28, 1972 to Alderson Reporting Company with attachments.

Jul. 31—Brief of defendants in response to all plaintiffs issues on N.E.P.A. issues; appendix A, B, C, D, E, F, G, H, I & J; c/m 7-31.

Jul. 31—Brief of Alyeska Pipeline Service Company; volumes 1, 2, 3, 4, 5, 6, 7; 7-31.

Jul. 31—Memorandum amicus curiae of United Distribution Companies; appendix A, c/m 7-31.

Jul. 31—Brief of intervenor State of Alaska; exhibit A; c/s 7-31.

Jul. 31—Stipulation that the 42 page document entitled "alternatives to the Trans-Alaska Pipeline System, effects on Fish & Wildlife of four possible routes dated 10-29-71, was submitted on 11-1-71 to Kenneth Roberts; c/m 7-28.

DATE PROCEEDINGS

1972

Aug. 7—Brief of National Environmental Policy Act issues to replace the typewritten briefs filed earlier; c/m 8-7.

Aug. 7—Reply brief of plaintiffs appendices A thru I; c/s 8-7.

Aug. 7—Reply brief for David Anderson & The Wildlife Federation; c/m 8-7.

Aug. 8—Transcript of proceedings 7-28-72; E. A. Kaufman Reporter (Court's copy).

Aug. 10—Reply brief of Cordova Distributor Fisheries Union; c/m 8-8.

Aug. 10—Hearing begun, environmental aspect; respited to August 15, 1972. (Reporter: E. A. Kaufman) Hart, J.

Aug. 15—Hearing resumed, mineral aspect, and concluded. Denying plaintiffs motion for partial summary judgment; denying plaintiffs and intervenors prayers for preliminary and permanent injunction dissolving the injunction and dismissing the complaint. (Reporter: E. A. Kaufman) Hart, J.

Aug. 16—Order denying plaintiffs motion for partial summary judgment; denying plaintiffs and intervenors prayers for preliminary and permanent injunction; dissolving injunction; dismissing the complaint. (N) Hart, J.

Aug. 17—Transcript of proceedings 8-14-72; E. A. Kaufman Reporter (Court's copy).

Aug. 17—Transcript of proceedings 8-15-72; E. A. Kaufman Reporter (Court's copy).

Aug. 22—Notice of appeal by David Anderson & The Wildlife Federation intervenor plaintiffs from order of 8-16-72. Copies mailed to Herbert Pettle, Robert E. Jordan, William E. Allen; deposit $5.00 by Berlin.

Aug. 22—Notice of appeal by The Wildlife Society, Environmental Defense Fund, Inc. & Friends plaintiffs from order of 8-16-72. Copies mailed to Herbert Pettle, Robert E. Jordan, William Allen. Deposit of $5.00 by Flannery.

Aug. 22—Preliminary Record on Appeal delivered to USCA; deposit of $1.25 by Dennis M. Flannery; receipt from USCA for preliminary record.

Aug. 23—Certificate of John J. McHale administrative record of Trans-Alaska Pipeline decision with 9 volumes and Box No. A, 10 & 18. (Filed in C. A. 861-71).

DOCKET ENTRIES

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

C.A. No. 861-71

THE CORDOVA DISTRICT FISHERIES UNION

v.

MORTON, ET AL

DATE	PROCEEDINGS
1971	
Apr. 28	Complaint, appearance Exhibit A; filed.
Apr. 28	Summons, copies (4) and copies (4) of Complaint issued D.A. ser 4-30; #1 ser 5-7; #2 ser 5-10; A.G. ser 5-3.
June 28	Motion of defts. to change venue; memorandum; c/m 6-28-71; M.C.; appearance of Herbert Pittle; filed.
June 29	Answer of defts. to complaint; c/m 6-29-71; appearance of Herbert Pittle; filed.
June 29	Certificate of service of defts. as to exhibits A, B & C on 6-29-71; filed.
June 29	Calendared (N) CD/N.
Jul. 6	Motion of pltf. for enlargement of time to file opposition; P&A; c/m 6-30-71; M.C.; filed.
Jul. 7	Notice of pltf. to take deposition of Bernard Coster; c/m 7-2-71; filed.
Jul. 9	Amended notice of pltf. to take deposition of Bernard Coster; c/m 7-5-71; exhibit A; filed.

Jul. 9—Stipulation extending time to file opposition to motion for change of venue to and including July 19, 1971. (fiat) (N) Hart, J.

Jul. 19—Opposition of pltf. to motion to change venue; exhibits 1 thru 4; c/m 7-15; filed.

Jul. 27—Request of pltf. for production under Rule 34; c/m 7-27-71; filed.

Jul. 27—Response of defts. to pltf.'s opposition to motion to change venue; attachment; c/m 7-27; filed.

Aug. 3—Withdrawal of motion to change venue by Defts.; filed.

Aug. 16—Motion of pltf. for partial summary judgment; memorandum; exhibits A & B; c/m 8-16-71; M.C.; filed.

Aug. 20—Motion of Alyeska Pipeline Service Company to intervene as a deft.; attachment 1; P&A; Appendix A&B; exhibit; c/m April 20, 1971; appearance of Robert E. Jordan III; deposit $5.00 by Jordan; filed.

Aug. 23—Notice by pltf. of taking of deposition of William R. Hudson; exhibit A; c/m 8-19; filed.

Aug. 27—Memorandum of pltf. in opposition to motion of Alyeska Pipeline Service Co. to intervene as deft; c/m 8-27; filed.

Aug. 27—Response of defts. to pltf's request for production; c/m 8-27-71; filed.

Aug. 27—Motion of defts. to place pltf's motion for partial summary judgment in abeyance; memorandum, attachment 1; c/m 8-27-71; M.C.; filed.

DATE	PROCEEDINGS
1971	
Aug. 30	Motion of the State of Alaska to intervene as deft.; P&A; affidavit; c/m 8-30-71; M.C.; appearance of John E. Havelock (State Capitol Pouch K, Juneau, Alaska); filed.
Sep. 7	Memorandum of pltf. in response to motion by State of Alaska to intervene; c/m 9-7; filed.

Sep. 8—Appearance of William H. Allen and Richard D. Copaken as counsel for State of Alaska, intervenor; CD/N; filed.

Sep. 10—Opposition of pltff. to motion to place pltffs. motion for partial summary judgment in obeyance; c/m 9-10-71; filed.

Sep. 10—Order granting motion of State of Alaska to intervene as a deft. on condition that Alaska file pleading no later than 9-30-71. (N) Hart, J.

Sep. 20—Order granting Alyeska Pipeline Service Co.'s motion to intervene; for production of documents. (N) Jones, J.

Sep. 23—Re-notice by pltf. of taking deposition of William R. Hudson; c/m 9-21-71; filed.

Sep. 27—Affidavit of service on re-notice of deposition; filed.

Sep. 28—Interrogatories of pltf. to deft. #1; filed.

Sep. 28—Affidavit of service by Kathleen M. Peterson of interrogatories to Rogers C. B. Morton; filed.

Sep. 30—Deposition of Bernard Coster for the pltf.; filed.

Sep. 30—Deposition of Bernard Coster for the pltf.; Deft's exhibits A, B, C, D, F, G, I; filed.

Sep. 30—Affidavit of Rosemary Rice in re to disposition of Bernard Coster; filed.

Sep. 30—Answer of intervenor State of Alaska to the complaint; c/m 9-30; filed.

Oct. 14—Points & Authorities by pltf. in support of opposition to motion to hold pltf's motion for summary judgment in abeyance; exhibit A; c/m 10-13; filed.

Oct. 14—Memorandum of Alyeska Pipeline in support of deft's motion to place pltf's motion in abeyance; c/m 10-14-71; filed.

Oct. 15—Statement of intervenor State of Alaska on deft's motion that pltf's motion for partial summary judgment be placed in abeyance; c/m 10-15; filed.

DATE PROCEEDINGS

1971

Oct. 15—Motion of defts' to place pltf's motion for partial summary judgment in abeyance argued and granted. (Order to be presented) (Rep: E. A. Kaufman) Hart, J.

Oct. 19—Transcript of proceedings, October 15, 1971, pages 1-9; reporter: E. Alfred Kaufman, Court's copy; filed.

Oct. 19—Answer of defts. to pltf's interrogatories; c/m 10-19-71; filed.

Oct. 19—Order granting defts' motion to hold pltf's motion for partial summary judgment in abeyance until further order. (N) Hart, J.

Oct. 29—Exhibits from R.&R. court reporters; filed.

Nov. 4—Deposition of Commander William R. Hudson for the pltf.; filed.

Nov. 11—Notice by pltf. to take deposition of Frederick J. Sanger; c/s 11-11; filed.

Nov. 17—Motion of defts. for protective order enlarging time for taking deposition; P&A; exhibit; c/m 11-17-71; M.C.; filed.

Nov. 19—Order directing that deposition of Dr. Sanger not be taken on 11-19-71 and not until after he has completed his work on NEPA impact statement, counsel for deft. shall then notify pltfs. for said deposition. (N) Hart, J.

Nov. 26—Request by pltf. for production; c/m 11-23; filed.

Dec. 14—Request of pltf. for production under Rule 34; c/m 12-14-71; filed.

1972

Jan. 5—Response of defts. to request for production; c/m 1-5; filed.

Jan. 18—Response of defts. to request for production of documents; c/m 1-17-72; filed.

Feb. 29—Interrogatories of pltf. to Alyeska Pipeline Service Co.; c/m 2-28-72; filed.

Feb. 29—Request of pltf. for production; c/m 2-28-72; filed.
Mar. 30—Response by defts. to pltf's request for production; c/m 3-28; filed.
Apr. 21—Request by pltf. for production; c/m 4-12; filed.
Apr. 25—Response of Alyeska Pipeline Service to interrogatories; attachments; I & II; c/m 4-25-72; filed.
Apr. 28—Motion of Alyeska Pipeline Service to Consolidate with 928-70; p&a; c/m 4-28-72; M.C.
May 12—Notice of pltf. to take depositions of Knute Johnson, Ross Mullins, Chet Cheshier, Pete Lovseth, Pete Isleib, Ed King, Bah Blake and Charlie Simpler; c/m 5-12-72.

DATE	PROCEEDINGS

1972
May 12—Request of pltf. for production under Rule 34 to State of Alaska; c/m 5-12-72.
May 12—Notice of defts. of intention to issue permits; c/m 5-11-72; filed.
May 11—Order granting motion of Alyeska Pipeline Service Company to consolidate C.A. 861-71 and C.A. 928-70. (N) Hart, J.
May 17—Copy of motions of deft. Alyeska Pipeline Service Company to place pltf's motion for partial summary judgment in abeyance; table of authorities; memo and for scheduling of pretrial conferences and related procedures; P&A; table of contents; c/m 5-17-72; M.C. (original filed in CA 928-70.)
May 19—Motion of deft. to withhold consideration of motion for partial summary judgment by Wilderness Society; c/s 5-19; M.C. (filed in CA 928-70)
May 19—Motion of defts. for scheduling of pretrial conferences; P&A; c/s 5-19; M.C. (filed in CA 928-70)
May 19—Copy of memo. of intervenor, State of Alaska, in response to motion of Alyeska Pipeline to pltf's motion for partial summary judgment in abeyance; c/m 5-19 (original filed in CA 928-71).

May 19—Copy of memo. of intervenor, State of Alaska, in response to motion of Alyeska Pipeline for scheduling of pretrial conference; c/m 5-19.
May 23—Transcript of proceedings, May 19, 1972, pages 1-9; rep: E. A. Kaufman (filed in CA 928-70).
May 26—Interrogatories by Alyeska Pipeline Service to Wilderness Society; c/s 5-26 (filed in CA 928-70).
June 6—Notice by pltf. of taking deposition of witnesses; c/m 6-6.
June 6—Notice by pltf. of taking deposition of persons conducting water tests; c/m 6-6.
June 6—Notice by pltf. of taking deposition of James Hemming; c/m 6-6.
June 6—Notice by pltf. of taking deposition of Gordon Watson and Leroy Sawl; c/m 6-6.
June 5—Deposition of Steven R. Smith for the pltfs.
June 5—Deposition of Edwin L. "Chet" Chaser for the pltfs.
June 5—Deposition of Malcolm S. Isleid for the pltfs.
June 5—Deposition of James E. King for the pltfs.

DATE	PROCEEDINGS

1972
June 5—Deposition of Ross Mullens for the pltfs.; Exhs. 1 & 2.
June 5—Deposition of Knute Johnson for the pltfs. with attached map.
June 7—Motion of defts. for protective order; P&A; c/m 6-7 (original filed in CA 928-71).
June 9—Transcript of proceedings June 7, 1972 pages 1 thru 50; Reporter; Joan Curtis Blair (filed in CA 928-70).
June 9—Interrogatories by deft. Alyeska Pipeline to intervenor pltfs.; c/s 6-9-72; filed in CA 928-70).
June 13—Petition of United Distribution Companies for leave to participate amicus curiae and withdrawal of petition to intervene; c/s 6-13; M.C. (filed in CA 928-70).

June 14—Order directing all parties serve any additional requests for production on or before 6-16-72; on or before 6-19-72 Government make available to all parties certain documents; discovery be completed on or before 6-23-72; on or before 7-17-72 Wilderness Society file brief; all defts. file briefs on or before 7-31-72; hearing set 8-14-72 and 8-15-72 if necessary; proposed finds to be filed on or before 8-21-72. (N) Hart, J.

June 19—Request by pltfs. for production to deft. Rogers C. B. Morton; c/m 6-16 (filed in CA 928-70).

June 19—Request by pltfs. for production of Alyeska Pipeline Service; c/m 6-16 (filed in CA 928-70).

June 20—Affidavit of Harold A. Berends.

June 20—Affidavit of Theodore G. Bingham.

June 20—Affidavit of Malcolm L. Johnson.

June 20—Affidavit of Stuart W. Gearhart; c/m 6-16-72.

June 21—Request of intervenor deft. for request for production; c/m 6/21/72.

June 23—Order on stipulation for protective order. (N) Hart, J.

June 29—Response of deft. to request for production of documents (filed in CA 928-70).

June 29—Answer of intervenor, State of Alaska, to first amended complt.; c/m 6-29.

Jul. 3—Response of Alyeska Pipeline Service Co. to interrogatories and request for production of documents (dated 6-14-72); c/m 7/3/72.

Jul. 6—Deposition of Wallace H. Noerenberg w/pltf's exhs. 1 & 2, published.

DATE PROCEEDINGS

Jul. 6—Deposition of Ben L. Hilliker with pltf's Exhs. # 1 & 2, published.

Jul. 6—Deposition of Joseph R. Blum with pltf's exhs. 1, 2, 3, 4, 5, 6 & 7, and State's exh. #1, published.

Jul. 10—Copy of answer of intervenor-pltfs. David Anderson and Canadian Wildlife Federation to interrogatories by deft.; c/m 6-10; original filed in CA 928-70.

Jul. 13—Copy of answer of intervenor-pltf. Warden to interrogatories of Alyeska Pipeline Co.; aff.; c/m 7-13; original filed in CA 928-70.

Jul. 17—Response of defts. to issues raised in pltf's motion for partial summary judgment; appendix A & B; c/m 7-17.

Jul. 17—Copy of brief for intervenor State of Alaska on Mineral Leasing Act issues and statement on Cordova motion for partial summary judgment; c/s 7-17.

Jul. 19—Memorandum of Cordova District Fisheries Union; appendix filed in CA 928-70.

Jul. 19—Motion of intervenor State of Alaska for leave to file amendment to its answer to complt.; P&A; M.C.

Jul. 19—Copy of motion to Alyeska Pipeline Service for clarification of preliminary injunction; P&A; affs. (2); c/m 7-19 (original filed in CA 928-70)

Jul. 21—Affidavit of service filed in CA 928-71.

Jul. 25—Brief of Alyeska Pipeline Service Co. covering Mineral Leasing Act; c/s 7-17; filed in CA 928-70.

Jul. 28—Letter dated 7/28/72 to Judge Hart changing wording of paragraph 2 of brief relating to the State Highway adding page 2 to replace corresponding page of the agreement as per defts.

Jul. 28—Motion of deft. Alyeska Pipeline Service Co. for clarification of preliminary injunction heard and granted. (Rep: Al Kaufman) Hart, J.

Jul. 28—Order granting motion of deft. Alyeska Pipeline Service Co. for clarification of preliminary injunction of 4-23-70. (N) (See order for details) (original filed in CA 928-70). Hart, J.

Jul. 31—Stipulation in re 42 page document entitled alternative to the trans-Alaska Pipeline System dated October 29, 1971 was submitted November 1, 1971; c/m 7-28.

DATE PROCEEDINGS

1972

Jul. 31—Brief of deft. in response to pltfs' briefs on Nepa issues (filed in C.A. 928-70).

Jul. 31—Brief of Intervenor State of Alaska; c/m 7-31.

Aug. 7—Brief of National Environmental Policy Act issued to replace the briefs filed earlier. (filed in CA 928-60); c/m 8-7.

Aug. 8—Transcript of proceedings, pages 1-12; July 28, 1972; rep: E. Alfred Kaufman. (filed in CA 928-70)

Aug. 10—Reply brief of Cordova District Fisheries Union; c/m 8-8 (filed in CA 928-70).

Aug. 14—Hearing begun; environmental aspect; respited to Aug. 15, 1972. (Rep: E. A. Kaufman) Hart, J.

Aug. 15—Hearing resumed, mineral aspect, and concluded; denying pltfs' motion for partial summary judgment; denying pltfs' and intervenors prayers for preliminary and permanent injunction dissolving the injunction and dismissing the complts. (Rep: E. A. Kaufman) Hart, J.

Aug. 16—Order denying pltfs' motion for partial summary judgment; denying pltfs' and intervenors prayers for preliminary and permanent injunction; dismissing the complts. (N) Hart, J.

Aug. 22—Notice of appeal by pltf. from order of 8-16-72; copies to Herbert Pittle, Robert E. Jordan and William Allen; $5.00 by Hogan.

Aug. 22—Preliminary record on Appeal delivered to USCA; deposit by Thomas F. Hogan $1.25.

Aug. 22—Receipt from USCA for preliminary record.

Aug. 23—Certificate of John J. McHale, Administrative record of Trans-Alaska Pipeline decision with 9 volumes and Box No. A, 10 and 18.

Letter from Kenneth P. Fountain to Russell E. Train, June 10, 1969

TRANS ALASKA PIPELINE SYSTEM,
Houston, Tex., June 10, 1969.

Re right-of-way application and sale of gravel.
Hon. RUSSELL E. TRAIN,
Under Secretary, Department of the Interior,
Interior Building,
Washington, D.C.

DEAR MR. SECRETARY: The attached application for Pipeline Right-of-Way has been delivered to the Office of the State Director, BLM, in Anchorage, Alaska. We have requested guidance from that office on the proper procedure for the processing of the application. The application deviates from requirements of the regulations with respect to 2234.1-2(d)(1) *Maps* and 2234.5-1(e) *Pumping plant site.*

In each case, detailed survey data is not yet available to facilitate mapping within the accuracy and with the requisite bearings, distances, and ties as set out in the cited sections. As stated in the application, a survey which will produce the mapping and station plats in exact compliance with the regulations has been contracted for and work is currently under way. We expect to produce an alignment map and station plats duly certificated by November, 1969. We plan to furnish the proper station plats and alignment map sheets as they are produced. The first of these alignment sheets should be available in late July or August. It is planned to furnish prints only of these sheets since some minor changes would be expected when the route is actually staked on the ground. When each of the sheets has been on the ground verified we will furnish reproducibles as required. Linen can be furnished, as specified in the regulations, however, film, if acceptable, will provide a better document since the base map will be aerial photography.

The interim alignment map furnished is completely plotted to a 1 inch = 1 mile scale. It contains, in addition to the pipeline plot, gravel and rock locations, soil test bore hole locations, a center line plot of the construction road right-of-way requested and notations where above ground construction is expected. Recognizing that soils data and drilling logs are not ordinarily part of a right-of-way application, this data is included both for your information and use and to demonstrate the depth of research employed in selection of the route sought.

The aditional right-of-way both for the construction road and the additional 46' which are necessary for ingress and egress to the primary right-of-way have been applied for under the provisions of 43 CFR 2234.1-3(a)(3). In reviewing 43 CFR, this provision appeared to be the most appropriate.

There is one additional right-of-way matter. We will be constructing communication facilities along the general route of the pipeline. These will most probably be microwave installations and will require sites for reporter station towers. Location of these sites will be accomplished in the near future and applications will be forthcoming.

There are, of course, large requirements for gravel incident to the construction. Sources of gravel have been tentatively located along the pipeline route and estimates of quantities required have been prepared. (See attached schedule of gravel sources and locations). As you can appreciate we have not proved each of these sources to insure that it is readily useable. We have defined with some degree of accuracy what our quantity requirements are. We would prefer to purchase the total amount of gravel without being held to the amounts specified from each specific source, i.e., so long as the total was not exceeded the amount from any single source could be more or less than that set out in the attached schedule. It would also be preferred if the time allowed to dig and take the gravel could extend up to say five or six years.

Time is of the essence in obtaining right-of-way for this pipeline. The unique environment of Alaska combined with the remoteness of the route make necessary a concurrence of processes that would otherwise be sequential. To give you an appreciation of our time requirements, I am enclosing:

1. *Road Construction Schedule.*—The first three spreads are scheduled to begin work this summer, spread one in August and spreads two and three in September. Gravel and right-of-way must be firmed up by July.

2. *Pipeline Construction Schedule.*—Although actual work is not scheduled to begin until early 1970, approximately six months mobilization time is required and we must have right-of-way data even before we request bids. Thus it is imperative that we obtain right-of-way permits with conditions and stipulations by July.

Also enclosed is a short summary of our method of route selection and a brief description of the construction road together with a tabulation of soil data, Valdez to Fairbanks.

It should be noted that the portions of above ground construction on the requested route are quite limited (approximately 40 miles or 5% of the total mileage) and more importantly in relatively short segments. This should relieve many of the fears expressed about the adverse effects of substantial surface construction.

If you have any questions or need any additional data, pleast let us know.

Very truly yours,

KENNETH P. FOUNTAIN

GRAVEL REQUIREMENTS FOR ROADS AND STATIONS

Location of borrow pit		Alinement sheet reference	Cubic yards
Range	Township		
R-14-E	T-8-N	1	420,000
R-14-E	T-7-N	1	230,000
R-14-E	T-6-N	1-2	440,000
R-14-E	T-5-N	2	200,000
R-14-E	T-4-N	2	426,000
R-14-E	T-3-N	2	240,000
R-15-E	T-2-N	2	429,000
R-15-E	T-1-N	2	200,000
R-14-E	T-1-N	3	214,000
R-14-E	T-1-S	3	220,000
R-14-E	T-2-S	3	423,000
R-14-E	T-3-S	3	210,000
R-14-E	T-4-S	3	300,000
R-14-E	T-5-S	3-4	508,000
R-14-E	T-6-S	4	409,000
R-14-E	T-7-S	4	205,000
R-14-E	T-8-S	4	403,000
R-14-E	T-9-S	4	198,000
R-13-E	T-9-S	4-5	210,000
R-13-E	T-10-S	5	344,000
R-13-E	T-11-S	5	290,000
R-12-E	T-12-S	5	444,000
R-12-E	T-13-S	5	296,000
R-12-E	T-14-S	6	160,000
R-12-E	T-15-S	6	268,000
R-11-E	T-16-S	6	300,000
R-10-W	T-37-N	6	148,000
R-10-W	T-36-N	6	148,000
R-10-W	T-35-N	6-7	296,000
R-10-W	T-34-N	7	162,000
R-10-W	T-33-N	7	308,000
R-10-W	T-32-N	7	298,000
R-10-W	T-31-N	7	150,000
R-11-W	T-31-N	7	140,000
R-11-W	T-30-N	8	148,000
R-12-W	T-29-N	8	368,000
R-12-W	T-27-N	8	363,000
R-12-W	T-26-N	8	125,000

R-13-W	T-26-N	8	120,000
R-13-W	T-26-N	9	150,000
R-13-W	T-25-N	9	148,000
R-13-W	T-24-N	9	128,000
R-14-W	T-24-N	9	162,000
R-14-W	T-23-N	9	527,000
R-15-W	T-20-N	10	333,000
R-15-W	T-20-N	10	120,000
Total yardage for roads			12,329,000

STATIONS

R-14-E	T-1-N	3	250,000
R-14-E	T-7-S	4	250,000
R-12-E	T-12-S	5	250,000
R-15-W	T-22-N	9	250,000
Grand total			13,329,000

I. PIPELINE ROUTE

The preliminary pipeline route selection was done by a task force of 27 men during the months of August and September 1968. There were five helicopter transported field parties involved in gathering data on several possible routes. From the evaluation of this data, a tentative route, with alternates, was chosen.

During the months of March and April of 1969, five more field parties were engaged in gathering soil data and samples along the tentative routes. These parties were comprised of a Party Chief, a Geologist, a three-man drilling crew and the necessary cat train personnel. The parties were supported by fixed wing aircraft and helicopters. The data collected included ground and air temperatures, geological observations, and drill hole logs and samples.

A ditching testing program was conducted in the Fairbanks area. This program was to determine the most feasible method and type of equipment to excavate different types of frozen soils. These test results will be made avail-

able to enable contractors to use optimum ditching methods with minimum damage to ground surface.

With the assistance of R&M Engr.-Geological Consultants, Arctic Engineering Consultants, and the University of Alaska, we have evaluated the data acquired from soil borings, from soil temperature readings, and from aerial photo interpretations. In addition, the entire route will be photographed using conventional color film and infrared film. Results of these new photos will be studied in detail to confirm the route being applied for.

The route as now proposed is a result of all of these studies in addition to the normal pipeline studies of hydraulic gradients, etc. This route is now thought to be the most economical and the most secure from damage to the pipeline and to the terrain. The route will of course be subject to minor alterations as we continue our studies with low altitude aerial photos and ground surveys.

II. Right-of-Way Width

The 54' R.O.W. width which is allowed by statute is not adequate for the construction of a 48" pipeline. The R.O.W. should be 100' width to accommodate the extremely large equipment that is necessary to handle the 48" pipe, and the large spoil pile of excavated soil. Attached are sketches of the required 100' wide pipeline R.O.W., and the 100' wide road R.O.W., for different methods of construction.

III. Road Construction

It will be necessary to construct approximately 390 miles of roadways to furnish access to the pipeline during construction. This road will begin at the Manley Hot Springs-Livengood Road at a point approximately 10 miles west of Livengood, and will continue generally north along the pipeline R.O.W. to Prudhoe. This road would be considered to be at least a semi-permanent, all weather road. The total traffic on this road will exceed 240,000 tons of freight during the construction of the pipeline.

The route for the road has been selected to follow the pipeline as nearly as possible. The road deviates from the pipeline R.O.W. in some areas, due primarily to the fact that a pipeline can negotiate much steeper grades than are practical for a road. Other factors taken into account were locations of stable soils, gravel borrow areas, rock quarry areas, and drainage features.

The road R.O.W. width should be 100 ft. to allow room for normal road construction methods for this type of terrain. The road would utilize normally accepted types of drainage structures, including culverts, bridges and fords.

There are numerous special studies in progress to determine the best methods of handling the Ecological, Archaeological and Conservation problems that will be encountered during and after the construction of the pipeline and road. Results of these studies will establish procedures to be used to meet all requirements of minimum changes to the terrain.

Valdez to Fairbanks Initial Summary Soil Types
[In miles]

Soil classifications	Frozen	Occasionally Frozen	Not frozen	Total
Silt	8.5			8.5
Sand	2.1			2.1
Silt—sand	26.0			26.0
Colluvium silt	2.4			2.4
Colluvium		3.9	0.5	4.4
Moraine		8.1	6.9	15.0
Alluvial fan			10.7	10.7
Glacial till		3.5	6.1	9.6
Silt—clay		15.3		15.3
Silt—clay and granular soil	42.3			42.3
Gravel	2.6		50.7	53.3
Sand—gravel and cobbles			.9	.9
Terrace gravel			.6	.6
Silt over gravel	11.2		7.0	18.2
Silt—sand over gravel		31.9	4.3	36.2
Silt—clay over gravel			.8	.8

Soil classifications	Frozen	Occasionally Frozen	Not frozen	Total
Silt over sand/gravel	8.5			8.5
Colluvium over glacial till		7.6		7.6
Silt over bedrock	.8		19.5	20.3
Silt—sand and cobbles over bedrock	3.4			3.4
Silt—sand over bedrock			11.5	11.5
Glacial till over bedrock			12.3	12.3
Moraine and tile over bedrock			7.0	7.0
Silt—sand/gravel over bedrock			1.8	1.8
Bedrock			16.4	16.4
Bedrock (greenstone)			.9	.9
Talus			2.8	2.8
Tailings			.4	.4
Snowslide zone			2.7	2.7
No coverage			7.2	7.2
Total miles	107.8	70.2	171.0	349.1

STIPULATIONS FOR THE TRANS ALASKA PIPELINE SYSTEM

Environmental Stipulations to be used in conjunction with existing laws and regulations for construction of the 48" oil Pipeline and related facilities from Prudhoe Bay to Valdez, Alaska.

Prepared by:

DEPARTMENT OF THE INTERIOR
and the
FEDERAL TASK FORCE ON ALASKAN OIL DEVELOPMENT

(Seal)

September 1969

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of the Secretary
Washington, D.C. 20240

Letter of Acknowledgement

This volume of stipulations represents the concerted efforts of the Department of the Interior and the Federal Task Force on Alaskan Oil Development, with the participation of State of Alaska agencies, to draw up guidelines that will provide exacting environmental protection during the construction and operation of the Trans Alaska Pipeline.

In this endeavor, we have asked our bureaus and representatives to judge both the conceptual framework and individual stipulations by a yardstick that was both fair and firm, one that stressed equally the importance of environmental protection and resource development.

The participation in this project has been notably broader than the cooperative effort of the Government agencies formally involved. We have received substantial counsel

from conservation and industry representatives, as well as from the interested public.

This wide participation and interest, as well as the depth of many contributions, underscore what is becoming a national commitment toward the proper use and protection of our natural resources.

It is a pleasure to acknowledge and thank those who have participated directly in this project, and particularly those not professionally involved who have contributed their sincerity and advice toward the responsible development of arctic Alaska.

/s/ WALTER J. HICKEL
Walter J. Hickel
Secretary of the Interior

A. Definitions

As used herein, the following terms have the following meanings:

"Authorized Officer" means the Alaska State Director, Bureau of Land Management, or the person designated or delegated to act in his stead with respect to the subject matter of this permit. As used herein, it is synonymous with "Superintendent in Charge," as that terms is used in 43 CFR, Subpart 2234.

"Pipeline" means the Pipeline right-of-way; all or any part of the Pipeline system constructed thereon; and all structures, facilities, and appurtenances related thereto or used in connection therewith, whether located on or off the Pipeline right-of-way.

"Permittee" means each and every individual, person or company, including partnerships, corporations, joint ventures, associations, or any other business firms engaged in, or which shall become engaged in, the construction, operation or maintenance of the Pipeline, together with their employees, agents, contractors and subcontractors and the employees of each of them.

B. General

1. Acknowledgments of Permittee

Permittee, by accepting this permit and commencing activities pursuant thereto, acknowledges each of the following:

a. That, except where the approval of the Authorized Officer is required before Permittee may commence a particular operation, neither the United States nor any of its agents or employees agrees to or is in any way obligated to examine or review any plan, design, specification, or other document which may be filed by Permittee with the Authorized Officer pursuant hereto;

b. That the absence of any comment by the Authorized Officer or any other employee of the United States with respect to any plan, design, specification, or other document which may be filed by Permittee with the Authorized Officer does not represent in any way whatever any assent to, approval of, or concurrence in such plan, design, specification, or other document or of any action proposed therein;

c. That this permit, and the rights and privileges granted thereby, is subject to all valid existing rights in and to the land which is the subject of this permit, and that the United States makes no representations or warranties whatever, either express or implied, as to the existence, number, or nature of such valid existing rights.

2. Authorized Officer

The Authorized Officer, and such representatives of interested Federal agencies as he may designate, may inspect the exploration, construction, operation, or any other activities of Permittee at any time.

For purposes of information and review, the Authorized Officer at any time may call upon Permittee to furnish any or all data related to pre-construction, construction, or operation activities undertaken in connection with the Pipe-

line and its related facilties, including roads. Permittee shall furnish the requested data as promptly as possible, or as otherwise required under the terms of this permit or other applicable permits. Such data specifically include, but are not limited to, records of all geological data, soil core drillings and terrain temperature measurements made during pre-construction investigations; and engineering standards, basic data and technical criteria relating to the design, construction and operation of the Pipeline, pumping stations, safety devices and monitoring programs.

The Authorized Officer may require Permittee to make such modification of the alignment and installation of the Pipeline as he may deem necessary to protect stability of geologic materials, integrity of the Pipeline, fish and wildlife habitats, and the environment. He may also require Permittee to make adjustments of the above-ground heights and/or methods of installation of the Pipeline to prevent obstruction of access.

The Authorized Officer shall be afforded reasonable use of Permittee's communications systems.

In the event the Authorized Officer determines in his absolute discretion that Permittee has failed or refused to comply with the provisions of this permit, or any other permit issued in connection with the Pipeline, the Authorized Officer, by written order, may suspend or terminate any or all of Permittee's activities. Permittee shall not resume such suspended or terminated activities until given written authorization to do so by the Authorized Officer.

All decisions, orders and determinations of the Authorized Officer, unless otherwise indicated by him in writing, shall be appealable only to the Secretary of the Interior. During the pendency of any such appeal, the Authorized Officer's decision, order, or determination shall not be suspended, but shall remain in full force and effect until the Secretary of the Interior finally disposes of the appeal.

3. Changes in Conditions

Unforeseen conditions arising during construction and operation of the Pipeline may make it necessary to revise or amend these stipulations. In that event, Permittee and the Authorized Officer shall agree as to what revisions or amendments shall be made. If they are unable to agree, the Secretary of the Interior shall have final authority to determine the matter.

4. Equal Opportunity

By accepting this permit, Permittee agrees that, during the period of construction of the Pipeline and its related facilities and roads, and for so long as the Pipeline, or any portion thereof, shall be in operation, or for so long as this permit shall be in effect, whichever is the longest;

a. Permittee will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. Permittee will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Permittee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authorized Officer setting forth the provisions of this equal opportunity clause.

b. Permittee will, in all solicitations or advertisements for employees placed by or on behalf of Permittee, state that all qualified applicants will receive consideration for employment without regard to race, religion, sex, color, or national origin.

c. Permittee will send to each labor union or representative of workers with which Permittee has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authorized Officer, advising the labor union or workers' representative of Permittee's commitments under this equal opportunity clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. Permittee will comply with all provisions of Executive Order No. 11246 of September 24, 1965, as amended, and the rules, regulations, and relevant orders of the Secretary of Labor.

e. Permittee will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, as amended, and by the rules, regulations, and orders of the Secretary of Labor, issued pursuant thereto, and will permit access to Permittee's books, records, and accounts by the Authorized Officer and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

f. In the event of Permittee's noncompliance with the equal opportunity clause of this permit or with any of such rules, regulations, or orders, this permit may be cancelled, terminated or suspended in whole or in part and Permittee may be declared ineligible for further Federal Government contracts or permits in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, as amended, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

g. Permittee will include the provisions of paragraph a. through g. of this equal opportunity clause in every contract, subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor

issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each contractor, subcontractor or vendor. Permittee will take such action with respect to any contract, subcontract or purchase order as the Authorized Officer may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event Permittee becomes involved in, or is threatened with, litigation with a contractor, subcontractor or vendor as a result of such direction by the Authorized Officer, Permittee may request the United States to enter into such litigation to protect the interests of the United States.

5. Liabilities and Responsibilities of Permittee

a. Any structure, property or land harmed or damaged by or during the construction, operation or maintenance of the Pipeline shall be reconstructed, repaired, rehabilitated and restored, as may be necessary, by Permittee as soon as practicable, so that the condition thereof, in the judgment of the Authorized Officer, is at least equal to the conditions thereof immediately prior to such damage or destruction. Permittee further shall abate as soon as practicable any condition existing with respect to the Pipeline or its related facilities or roads, or with respect to the construction, operation or maintenance thereof, which may be causing harm or damage to any person, structure, property, land, stream or wildlife.

b. Permittee shall be liable to the United States for any damage suffered or cost or expense incurred by the United States in any way arising from or connected with any operation under this permit whenever such damage, cost or expenses results from any breach of the permit or from any wrongful or negligent act of Permittee. Immediately upon written notice by the Authorized Officer of the nature and amount of such damage to or cost or expense of the United States, Permittee shall reimburse the United States therefor.

c. Permittee further shall indemnify and hold harmmless the United States against and from any and all demands, claims or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with any or all of the following: 1) The construction, operation or maintenance of the Pipeline or of any facility, structure or road used in connection therewith, whether or not located on Federally-owned land; and 2) The use or occupancy, whether authorized or not, by any person whomsoever of any land owned by the United States which is the subject of any permit or right granted to Permittee; provided, however, that the provisions of this paragraph c. shall not be deemed to apply to injuries or damages to the extent caused by employees of the United States acting within the scope of their authority.

6. Bonding Requirements

Permittee shall furnish a bond or other security (hereinafter called "Bond") of such type and on such terms and conditions as are acceptable to the authorized Officer, in the principal amount of five million dollars ($5,000,000), within thirty (30) days after issuance to Permittee of a permit for a right-of-way for oil pipeline purposes.

Said Bond shall have the purpose of: 1) ensuring the performance by Permittee of each and every obligation of Permittee under the terms and conditions of any permit issued to Permittee by the United States in connection with the Pipeline; and 2) providing for immediate payment to the United States of any cost or obligation incurred by the United States in performing any said obligation of Permittee which, in the absolute judgment of the Authorized Officer, Permittee has not performed satisfactorily.

Said Bond shall be maintained in force and effect during construction of the Pipeline, as for so long as the Pipeline is operated, and for so long thereafter as may be necessary.

7. Housing and Quarters

Permittee shall furnish, on a reimbursable basis, such representatives of the United States as may be designated by the Authorized Officer with meals, living quarters and office space during the periods of construction and operational activities. Permittee shall be notified in writing by the Authorized Officer at a reasonable time before need exists, regarding the number of individuals for whom such services and facilities will be required.

8. Public Improvements

Existing telephone, telegraph, and transmission lines, fences, ditches, roads, trails, and other improvements shall be protected in all phases of Permittee's construction operations under this permit. Damage to utilities and improvements shall be promptly repaired to a condition which is at least as good as the condition just prior to such damage.

All roads and trails needed for fire protection shall be kept free of logs, slash, and debris.

Construction activities will not be allowed within one-half (½) mile of all designated recreation sites (campgrounds, waysides, parks) unless authorized in writing by the Authorized Officer.

9. Federal, State and Local Laws and Regulations

Permittee shall comply with all applicable federal, state and local laws and regulations thereunder, existing or hereafter enacted or promulgated, affecting in any manner construction, operation, or maintenance of the Pipeline or any road constructed in connection therewith.

10. Pipeline Standards, Design and Compliance

All design, materials, and construction practices employed in the installation of the Pipeline shall be in accordance with safe and proven engineering practice for the arctic environment and in accordance with the following pipeline standards:

a. U.S.A. Standard Code for Pressure Piping, Liquid Petroleum Transportation Piping Systems (USAS B31.4-1966).

b. The Department of Transportation's proposed regulations on "Transportation of Hazardous Materials by Pipeline."

If either of said pipeline standards contains a provision which is inconsistent with a provision in the other standard, whichever provision is the more stringent shall be observed by Permittee. The plan and profile for the Pipeline shall be submitted for review and approval of the Authorized Officer prior to commencement of construction for any section of the Pipeline. The plan shall show the locations of pumping plant sites, block valves, stream crossings and other facilities; it shall also show those parts of the Pipeline to be constructed above ground, the dimensions of aboveground structures, and the general specifications and locations of all crossings across the Pipeline.

The design shall provide for automatic shut-off valves at each pumping station and additional valves using the best engineering judgment with due regard for the following:

terrain traversed, including associated drainage;

population centers;

wildfowl habitat and fishery habitat;

public water supplies and signinficant water bodies including the Yukon River and other major rivers; and

hazardous geologic areas;

All practical means will be utilized to avoid breaking or otherwise injuring the tundra or other organic layers in permafrost areas outside the Pipeline ditch area.

X-ray testing of weld quality and pressure testing of the completed Pipeline shall be conducted by Permittee prior to placing the system in operation.

During the construction of the Pipeline, Permittee shall protect the environment, stability of geologic materials, and integrity of the Pipeline and shall prevent undue interference with access over or across the Pipeline.

Permittee shall provide for continuous and suitable inspection of the Pipeline and related facilities by qualified inspectors to assure compliance with design and construction specifications.

11. Survey Monuments

In surveyed areas, Permittee shall mark and protect all survey monuments within or near the Pipeline right-of-way against destruction, obliteration or damage during the life of this permit. If any monuments corners or accessories are destroyed, obliterated or damaged, Permittee shall hire a registered land surveyor to reestablish or restore at the same location the monuments, corners or accessories using surveying procedures in accordance with the "Manual of Instructions for the Survey of Public Lands of the United States, 1947 Ed.," and shall record such survey in the appropriate records. Additional requirements for the protection of monuments, corners, and bearing trees may be prescribed by the Authorized Officer.

12. Environmental Briefing

Prior to and during construction activities, Permittee shall provide for environmental and other pertinent briefings of construction and other personnel by such Federal employees as may be designated by the Authorized Officer. Such briefings shall include fire prevention and suppression training for all construction personnel. Permittee shall arrange the time, place and attendance for such briefings upon request by the Authorized Officer. Permitteee shall bear all costs of such briefings other than salary, per diem, subsistence, and travel costs of Federal employees.

In addition, Permittee shall separately arrange with the State of Alaska for such similar briefings as the State may desire.

13. Construction Schedule

Prior to commencement of construction, Permittee shall submit a schedule of its construction activities. This schedule shall be in such detail as may be required by the Authorized Officer. During the course of construction this schedule shall be updated and resubmitted at 30-day intervals.

14. Surveillance and Maintenance

Permittee shall, during the life of the Pipeline permit and for so long as the Pipeline is in operation, conduct a surveillance and maintenance program applicable to the arctic environment in a timely manner and designed to provide for public safety, prevent damage to any resources adjacent to the Pipeline right-of-way, prevent erosion from the Pipeline right-of-way and maintain pipeline integrity. The surveillance and maintenance program shall include an effective communications system.

Records on construction, operation and maintenance activities shall be maintained by Permittee and regularly submitted as required to appropriate State and Federal agencies. Such records will include surveillance data, leak and break records, and necessary operational data. .

Roads or air strips shall be maintained by Permittee to give maintenance crews access to valves, pumping stations, and other facilities.

15. Electronically Operated Devices

Permittee shall screen, filter, or otherwise suppress any electronically operated devices, that are installed as part of the Pipeline which are capable of producing electromagnetic interference radiations, to the extent necessary so that such devices will not adversely affect the functioning of existing communications systems or navigational aids. In the event that physical obstructions such as towers or buildings are to be erected as part of, or in association with,

the Pipeline, their positioning should be such that they will not obstruct radiation patterns of line-of-sight communications systems, navigational aids, or similar systems.

16. Oil Spills

Permittee recognizes its prime responsibility for the protection of the public and environment from the contingency of oil spillage.

a. Reporting of Oil Leaks

All spills or leakage of oil or waste materials shall be recorded and reported by Permittee in accordance with 49 CFR, Part 180. Reports shall be filed with the Central Reporting Network as may be required by any joint Federal-State contingency plan which may be adopted and which pertains to the minimization of the effects of a spill of oil or other hazardous substances in Alaska or adjacent waters.

b. Containment of Oil Spills at Storage Tanks and Tank Farms

Permittee shall provide oil spill containment dikes or other structures around storage tanks at pumping stations and at the Valdez tank farm. The volume of the containment structures shall be at least: 1) one-hundred ten (110) percent of the total storage volume of the storage tanks in the relevant area, plus 2) a volume sufficient for maximum trapped precipitation and runoff which might be impounded at the time of the spill. Such structures shall be impervious so as to provide seepage free storage over reasonable periods of time.

c. Cleanup of Oil Spills

Permittee shall submit a contingency plan in conformance with the recommendations of the National Interagency Committee at least sixty (60) days prior to scheduled commencement of pumping. The plan shall: include oil spill control, disposal and cleanup; specify that the Interior agencies responsible for contingency plans in Alaska shall

be among the first to be notified in the event of a Pipeline failure resulting in oil spill; provide for immediate corrective actions, including control and cleanup of oil spills and restoration of the affected resource; and spell out that the Authorized Officer shall approve any materials or device used to control or clean up oil spills and shall approve any disposal sites or techniques selected to handle oily matter. Detailed information must be included for major river crossings, lakes, populated areas, pumping stations and terminals. The contingency plan shall include separate and specific oil spill cleanup techniques for 1) terrestrial, 2) lake, 3) river and stream, 4) marine, and 5) estuarine spills. The plan must be approved by the Authorized Officer prior to pumping oil through the Pipeline.

If at any time, including without limitation during any phase of the construction, operation or maintenance of the Pipeline, any oil or other pollutant should spill or escape from the Pipeline, the control and total removal, disposal and cleaning up of such oil or other pollutant, wheresoever found, shall be at the expense of Permittee. Upon failure of Permittee to control, dispose of, or clean up an oil spill, or to repair all damages resulting therefrom, the Authorized Officer shall take such measures as he deems necessary to control the spill, clean up the spillage and restore the area to as near its original condition as possible at the full expense of the Permittee.

17. Excavations

In excavation operations, Permittee shall use construction methods that will provide maximum protection to animals and human beings.

18. Termination of Use

Upon revocation or termination of the Pipeline permit or abandonment of any section of the Pipeline, Permittee shall remove all above-ground Pipeline sections, and restore the land to the satisfaction of the Authorized Officer.

Prior to capping the open ends of underground pipe sections, all oil and residues shall be removed from the pipe.

19. Pipeline Corrosion

Permittee shall provide detailed plans for corrosion resistant design and methods for early detection of corrosion. These will include: pipe material and welding techniques to be used and information on their particular suitability for the environment involved; details on the external pipe protection to be provided (coating, wrapping, etc.), including information on variation of the coating processes to cope with variations in environmental factors along the Pipeline route; plans for cathodic protection including details of impressed ground sources and controls to insure continuous maintenance of adequate protection over the entire external surface of the pipe; details of plans for monitoring cathodic protection current including spacing of current monitors; provision for periodic intensive surveys of trouble spots and regular preventive maintenance surveys and special provisions for abnormal potential patterns resulting from crossing of the right-of-way by other pipelines or cables; information on precautions to be taken in removing corrosive substances (e.g., saline water) from the crude prior to moving it to the pipeline. Permittee will also provide comments on the need for plans for periodic internal pitting surveys by electromagnetic or other means.

20. Seismic Monitoring

Permittee shall file with the Authorized Officer for approval a detailed plan for the monitoring of crustal strain and microseismic activity in the vicinity of the proposed Pipeline route.

Said monitoring network shall be constructed and in operation prior to use of the Pipeline.

The monitoring network shall include establishing of reference points on stable ground, placed at satisfactory intervals so as to form closed figures. Trilateration meas-

urements shall be made at time intervals not to exceed six months and to a probable error not to exceed two parts per million. As data on creep locations and rates are accumulated, Permittee shall install recording or telemetering creep meters where movement is rapid. The monitoring network shall also provide for clusters of seismonitors, with outputs telemeter to a central facility, where the Pipeline crosses major fault zones.

Data obtained from the network shall be provided to the Authorized Officer at regular intervals throughout the operational life of the Pipeline. Strain, creep, and microseismic data shall be used by Permittee to aid in the initiation of corrective measures to protect the Pipeline from breaking from tectonic strain.

C. Native Training

Permittee shall enter into an agreement with the Secretary of the Interior regarding recruitment, testing, training, placement, employment and job counseling of Alaska Natives.

Continuously during Pipeline construction, Permittee shall conduct a pre-employment and on-the-job training program for Alaska Natives, adequate to qualify them for initial employment and for advancement to higher paying positions thereafter.

Permittee shall do everything within its power to secure the employment of those Alaska Natives who successfully complete Permittee's training program.

Permittee shall inform the Authorized Officer of its discharge of any Alaska Natives, and of the reasons therefor, in advance of such discharge wherever possible or, if advance notice is impossible, as soon thereafter as is practicable.

Permittee shall furnish the Authorized Officer such information and reports concerning Alaska Native employment as the Authorized Officer shall require from time to time.

D. Regulation of Public Access

After construction is completed, Permittee shall permit free and unrestricted public access to and upon the Pipeline and access road rights-of-way for all lawful and proper purposes except areas designated as restricted by Permittee with the consent of the Authorized Officer.

During construction Permittee may regulate public access and vehicular traffic as required to facilitate operations and to protect the public and wildlife from hazards associated with the Project. For this purpose, Permittee shall provide warnings, flagmen, barricades and other safety measures as necessary.

Provisions must be made for suitable permanent crossings where Permittee's Pipeline right-of-way and related access roads cross existing roads, foot-trails, winter sled trails, or other rights-of-way.

During construction, Permittee shall provide alternate routes for existing roads and trails as determined by the Authorized Officer, whether or not these roads or trails are recorded.

E. Pollution Abatement

1. Pesticides and Herbicides

The use of pesticides and herbicides is limited to non-persistent and immobile types. An approved list of pesticides and herbicides, together with application constraints shall be obtained from the Authorized Officer.

2. Water Pollution

Permittee shall conduct its activities in a manner to prevent pollution of land and water, thereby protecting acquatic and terrestial life.

Toxic material or sediments shall not be released in any lake or water drainage in such concentrations as would

exceed acceptable water standards. Every effort shall be made to protect water bodies from damage by erosion and unnatural drainage conditions. In the design, construction and operation of the Pipeline, protection of water quality shall be of prime importance. Criteria for compliance will be the "Alaska State Plan-Water Quality Standards for Interstate Waters within the State of Alaska" as revised.

Unless waived by the Authorized Officer, dikes or cofferdams shall be installed to separate concrete work areas from lakes or streams during construction.

Mobile ground equipment shall be kept out of the waters of lakes, streams or rivers except for crossings within the right-of-way limits.

3. River and Stream Crossings

The Pipeline shall cross all rivers and streams completely underground unless a different means of crossing is approved in writing by the Authorized Officer.

4. Thermal Pollution

At all underground water crossings the Pipeline shall be placed at such depth and be so insulated that it will not degrade the water beyond standards set for thermal pollution in the State of Alaska.

If changes in the overburden take place so as to expose the pipe to natural water, the Pipeline will be additionally insulated from the water to the satisfaction of the Authorized Officer.

A standard stream crossing profile shall be filed in advance of Pipeline installation for review by the Authorized Officer.

F. Erosion Control

1. General

The design of the Pipeline, roads, and associated structures shall include specifications for the construction of

erosion control and drainage features that will minimize the concentration of water and thereby reduce erosive effects.

The erosion control measures such as water bars, contour furrows, water spreaders, diversion ditches, plugs, or other control measures shall be constructed to avoid induced and accelerated erosion and to lessen the possibility of forming new drainage channels resulting from construction activity on all Pipeline rights-of-way areas. All control measures must be designed with proper regard to minimize disturbance to the thermal equilibrium, thus minimizing the adverse effects of permafrost degradation.

The Authorized Officer shall be informed of all proposed erosion control measures.

2. Stream Banks

Excavated cuts through stream banks shall have side slopes that will not erode or slide.

Where practicable, unless otherwise approved by the Authorized Officer, temporary access over stream banks shall be made through use of fill ramps rather than by excavating through stream banks. Permittee shall remove such ramps upon termination of seasonal use or abandonment.

3. Water Crossings

At water crossings, the Pipe trench excavation shall stop an adequate distance from the water crossing to leave a protective plug (unexcavated material) at each bank. These plugs shall be left in place until the crossing grade is complete behind the plug and the pipe laying operation is begun. The plugs shall not be completely removed until absolutely necessary. The plugs shall be replaced with stable material on each bank as soon as the pipe is laid.

4. Disturbed Areas

Permittee shall conduct all construction, operation, and maintenance activities with minimum disturbance to vegetation.

Disturbed areas shall be restored by Permittee as nearly as practicable to their original condition as follows:

a. All disturbed areas shall be left in a stabilized condition. Stabilization practices shall include, as determined by the needs of specific sites: seeding; planting; mulching; and the placement of mat binders, soil binders, rock or gravel blankets, or structures.

b. Special attention shall be given to stream and river crossings so as to prevent erosion. Such measures shall not interfere with fish passage.

c. Material from the trench excavation in excess of that required to backfill around the pipe shall be disposed of in a manner approved by the Authorized Officer.

d. Seeding and planting shall be conducted during the first growing season and shall be repeated if unsuccessful on the first attempt. All other restoration shall be completed as soon as possible.

e. Unless other acceptable methods such as controlled burning or burial are approved by the Authorized Officer, all trees, snags, stumps or other woody material, not having commercial or construction value, shall be mechanically chipped and spread in a manner that will aid seeding establishment, soil stabilization and the minimization of permafrost degradation.

5. Disturbance of Natural Waters

All construction activities of Permittee which may create new lakes, drain existing lakes, significantly divert natural drainages, permanently alter stream hydraulics, disturb significant areas of streambeds, or appreciably degrade

water quality, shall be prohibited unless approved in advance by the Authorized Officer.

6. Areas of Unstable Soils

Areas having soils that are susceptible to slides and slumps, excessive settlement, severe erosion and soil creep shall be avoided wherever possible. However, if these areas cannot be avoided, or are encountered unexpectdly, Permittee shall design its construction to insure maximum stability. Permittee will continue soil investigations in conjunction with construction activities. Such data shall be made available to the Authorized Officer upon his request.

The Authorized Officer may require special construction methods, and or rerouting, where unstable conditions are encountered.

7. Permafrost Degradation

Permittee shall conduct studies to determine: (1) the most feasible route and best construction design through permafrost areas so as to prevent permafrost degradation that could result in progressive geomurphic degredation and (2) whether the Pipe should be buried or above ground. The potential effects of installing the pipe beneath the surface in moisture laden permafrost will be determined with regard to each segment of the Pipeline, and reports thereon shall be filed with the Authorized Officer prior to construction of each segment of the Pipeline. Construction methods shall be designed to prevent degradation of the permafrost in areas where such degradation would result in detrimental erosion or subsidence.

8. Off Right-of-Way Traffic

Permittee's vehicles shall not be operated outside the boundaries of the Pipeline, access or other roads, or other permitted areas, except with the consent of the Authorized Officer or when necessary to protect life, limb, or public property.

G. Sanitation and Waste Disposa[1]

All waste generated in road or Pipeline construction and operation shall be removed or otherwise disposed of in a manner acceptable to the Authorized Officer. All applicable standards and guidelines of the Alaska State Department of Health and Welfare, the United States Public Health Service and the Federal Water Pollution Control Administration shall be adhered to by Permittee. All incinerators shall meet the requirements of all applicable State and Federal laws and regulations and shall be used with maximum precautions to prevent forest and tundra fires. After incineration, material not consumed in the incinerator shall be disposed of in a manner approved in advance by the Authorized Officer.

Emissions from incinerators, pumps, motors, equipment and installations and other burning material, must meet the air quality standards of the United States Public Health Service and the State of Alaska.

The term "waste" as used in this stipulation means all discarded matter, including but not limited to human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment. The best practicable portable or permanent waste disposal systems shall be used and shall be approved in advance by the Authorized Officer.

H. Small Craft Passages

The creation of any permanent obstruction on any waters to the passage of canoes, boats, or other craft under forty feet in length, is prohibited.

I. Aesthetics

Permittee shall consider aesthetic values in planning, construction, and operation of the Pipeline and its associated facilities and roads. All permanent structures shall be painted a color or colors that harmonizes with their natural setting. The Authorized Officer may require such plans as he deems necessary to protect aesthetic values.

J. Timber

1. Commercial Timber

Prior to clearing operations, Permittee will enter into a contract with the United States for the purchase by Permittee of all merchantable timber situated within the Pipeline right-of-way.

2. Noncommercial Timber

Clearing and grubbing limits shall be approximately 10 feet outside of the edge of any cut or fill. Unless other methods, such as controlled burning or lopping and burial, are agreed upon between Permittee and the Authorized Officer in the clearing plan as acceptable for a given segment, all trees, snags, stumps or other woody material not having value to Permittee shall be mechanically chipped and spread in a manner that will aid seeding establishment, soil stabilization and the minimization of permafrost degradation. Permittee shall identify right-of-way clearing boundaries on the ground for each construction segment prior to clearing operations.

All timber and other vegetative material outside the right-of-way clearing boundaries and all blazed, painted or posted trees which are on or mark the clearing boundaries are reserved from cutting and removal with the exception of danger trees or snags designated as such by the Authorized Officer.

All trees, snags, or other woody material cut in connection with clearing operations shall be cut so that the resulting stumps shall not be higher than six (6) inches measured from the ground on the uphill side.

All trees, snags, and other woody material cut in connection with clearing operations shall be felled into the right-of-way and away from live water courses.

In areas where heavy equipment would be detrimental under the existing conditions, standard hand clearing operations will be used.

Logs shall not be skidded or yarded across any stream without prior approval of the Authorized Officer.

All debris, such as logs, chunks, and tops resulting from clearing operations and construction which may block stream flow, delay fish migration, contribute to flood damage, or result in streambed scour or erosion shall be removed.

No log landing shall be located within two hundred (200) feet of any live stream course.

Logs having a value to Permittee shall be neatly piled adjacent to the right-of-way clearing boundary if further use is contemplated by Permittee.

K. Wildlife

1. Hunting, Fishing, and Trapping

Permittee shall inform its employees, agents, contractors, subcontractors, and their employees, of applicable laws and regulations relating to hunting, fishing, and trapping.

2. Use of Explosives

At least thirty (30) days in advance of any underwater blasting Permittee shall submit to the Authorized Officer a plan for such blasting. The plan shall set forth blasting locations, types and amounts of explosives, date or dates of blasting, and the reason for the blasting.

No blasting shall be permitted underwater, or within one quarter (¼) mile of streams or lakes, without a permit from the Alaska Department of Fish and Game.

3. Buffer Strips

Except at approved crossings, the Pipeline shall be located so as to provide three hundred (300) minimum buffer strip of undisturbed land along all streams. Requests for exceptions to this provision shall be submitted in writing to the Authorized Officer at least thirty (30) days in advance of approval. The request shall include a description of the design criteria and time necessary to restore or enhance the stream habitat.

4. Fish Spawning Beds

"Fish spawning beds" means the areas, usually gravel, where anadromous and resident fish deposit their eggs.

Where channel changes cannot be avoided in designated anadromous fish spawning beds, new channels shall be constructed according to standards supplied by the Authorized Officer. Spawning beds shall be protected from sediment from all sources of construction activity. Where soil material is expected to be suspended in water as a result of construction activities, sediment settling basins shall be constructed to permit the removal of silt before it reaches the stream or lake. Special requirements may be made by the Authorized Officer for each stream system to protect spawning beds. Permittee shall repair all damage to fish spawning beds caused by construction, operation, or maintenance of the Pipeline.

5. Migration of Fish

Permittee shall provide for uninterrupted and safe upstream or downstream passage of fish. Any artificial structure or any stream channel change that causes a permanent blockage to migration of fish shall be provided with a permanent fish passage structure that meets all Federal and State requirements. The proposed design shall be submitted to the Authorized Officer at least thirty (30) days in advance of construction.

Unless otherwise provided for by appropriate State or Federal authority, culvert construction in water crossings shall meet the following minimum standards:

a. Water velocities at medium discharge will not exceed four (4) feet per second in any part of the culvert.

b. Installation shall be at zero gradient with the bottom of the outlet six (6) inches below the natural streambed to prevent erosion at the downstream end of the culvert.

c. Where necessary because of outfall erosion, a stilling basin shall be constructed at the outflow end of the culvert that is at least three (3) feet deep and twelve (12) feet long. The pool sides shall be stabilized with riprap or other appropriate method to prevent erosion.

d. Water shall be diverted around the work area in the streambed during installation of the culvert to reduce siltation.

e. Water diversion ditches or pumps shall be screened with a device approved by the Authorized Officer to prevent harm to migrating fish.

Abandoned water diversion structures shall be plugged and stabilized to prevent trapping or stranding of fish.

6. Seasonal Concentrations of Fish and Game

Key fish and wildlife areas may be closed to construction activities during periods of wildfowl nesting, migration, and spawning. The Authorized Officer shall provide Permittee written notice of closure.

From time to time, the Authorized Officer shall furnish Permittee a list of areas where closure may be required, together with anticipated dates of closure.

7. Big Game Movements

Permittee shall construct the Pipeline, both buried and above ground sections, so as to assure unrestricted passage and movement of big game animals.

L. Antiquities and Historical Sites

Permittee shall engage an archeologist approved by the Authorized Officer to provide surveillance and inspection of the Pipeline for archeological values.

If in connection with any operation under this permit Permittee excavates known or previously unknown archeological, paleontological, or historical sites, Permittee shall notify immediately said archeologist who shall investigate and provide an on-the-ground opinion regarding the protection measures to be undertaken by Permittee. The Authorized Officer may suspend that portion of Permittee's operations necessary to preserve evidence pending investigation of the site by said archeologist or his representative.

Two copies of all survey and excavation reports shall be filed with the Authorized Officer.

M. Fire Prevention

Permittee shall take all measures necessary or appropriate for the prevention and suppression of fires on the permit area and on other Federal lands. Permittee shall comply with all applicable laws and regulations, and with the instructions and directions of the Authorized Officer concerning the prevention and suppression of fires.

N. Campsites

Permittee or its contractors shall obtain special land use permits for each campsite from the Authorized Officer.

Upon abandonment or relocation of each campsite, the area shall be cleaned up and restored to a condition satisfactory to the Authorized Officer.

O. Material Sites

1. Purchase of Materials

Permittee shall make application in accordance with applicable regulations, to purchase construction materials, consummate a materials sale contract with advance payment, and submit a mining plan that must be approved before any materials are removed from the public lands.

Permittee shall utilize upland materials and existing material sites in place of clearwater stream materials when

reasonably available. Gravel and other construction materials shall not be taken from stream or river beds or shores or outlets of lakes that are or could be considered as spawning areas unless approved by the Authorized Officer.

2. Vegetative Screen

Permittee shall not cut or remove any vegetative cover within a minimum of five hundred (500) foot strip between roads and material sites unless authorized to do so in writing by the Authorized Officer. Permittee shall remove any debris created by its construction activities.

Where primary roads intersect the Pipeline right-of-way, a screen of vegetation native to the specific setting shall be established unless waived by the Authorized Officer in writing.

3. Layout of Material Sites

Material site boundaries should be shaped in such a manner as to blend with surrounding natural land patterns. Regardless of the layout of material sites, primary emphasis shall be placed on prevention of damage to vegetation and soil erosion.

4. Fish Protection

If material sites are approved adjacent to or in certain lakes, rivers or streams, the Authorized Officer may further require the construction of levees or berms to protect fish and prevent siltation or streams or lakes.

5. Restoration

All slopes shall be left in a stable condition.

Haul ramps, berms, dikes and other earthern structures shall be leveled and other structures removed unless otherwise directed by the Authorized Officer.

Material pits in stream and river bottoms and channels shall be connected to the stream by channels constructed to allow flow of water through the pit at median stream stage.

Vegetation, overburden and other materials removed from surfaces of material sites shall be disposed of by Permittee at termination of use of the site in a manner approved by the Authorized Officer. Vegetative debris which has been put through a chipper shall be spread evenly over material site slopes, together with other organic materials and topsoil. Permittee, during the first growing season following termination of use of the site, shall revegetate material site slopes through seeding and planting with suitable plant materials unless otherwise directed by the Authorized Officer.

Upon completion of material site restoration, Permittee shall immediately remove all equipment, materials and supplies from the sites.

PARTICIPATING AGENCIES

ALASKA

Federal

Department of the Interior
- Regional Coordinator
- Bureau of Land Management
- Bureau of Sport Fisheries and Wildlife
- Bureau of Commercial Fisheries
- Federal Water Pollution Control Administration
- Bureau of Mines
- U.S. Geological Survey
- Bureau of Indian Affairs
- National Park Service

Department of Defense
- Corps of Engineers, Alaska District
- Alaskan Command

Federal Field Committee for Development Planning

State

Department of Fish and Game

Department of Natural Resources, Division of Lands

Department of Highways

WASHINGTON

Federal Task Force on Alaskan Oil Development
Department of the Interior
Department of Defense
Department of Transportation
Department of Commerce
Department of Health, Education and Welfare
Department of Housing and Urban Development

THE SECRETARY OF THE INTERIOR
WASHINGTON

September 15, 1969

MEMORANDUM TO THE PRESIDENT

Subject: Preliminary Report of the Federal Task Force on Alaskan Oil Development

Attached is the Preliminary Report of the Federal Task Force on Alaskan Oil Development as requested in your Memorandum of May 9, 1969.

Since its inception, the activities of the Task Force have concentrated primarily on the application by the Trans Alaska Pipeline System for an 800-mile right-of-way from Alaska's North Slope to the Port of Valdez on the Pacific Ocean.

This report concisely examines the background and the organization of the Task Force, and the scope of interrelated problems—environmental, technological, social, and legal, —involved with a project of this magnitude over arctic, remote, and wilderness terrain. The report also discusses the major problems still outstanding, and our intentions for future activity.

The Task Force has been guided by your charge that oil be explored and developed "without destruction and with

minimum disturbance" to the environment of arctic Alaska.

/s/ WALTER J. HICKEL
Walter J. Hickel

Attachment

FEDERAL TASK FORCE ON ALASKAN OIL DEVELOPMENT
A Preliminary Report to the President

September 15, 1969

Background

The petroleum discovery on Alaska's North Slope, announced in August 1968, by Atlantic-Richfield and Humble Oil and Refining Companies represents a reservoir of major importance to the energy and defense posture of the Nation.

In anticipation of the array of problems—environmental, technological, social, and legal—involved with the extent and rapidity of North Slope oil development the Secretary of the Interior established the North Slope Task Force on April 18, 1969. Chaired by the Under Secretary of the Interior it was composed of eight departmental bureau and office heads, and charged with the responsibility of insuring environmental and orderly development of Federal lands on Alaska's North Slope.

On May 9, 1969, during the Under Secretary's 5-day inspection of the North Slope, the President suggested by memorandum to Secretary Hickel that the North Slope Task Force be enlarged into a Government-wide group (Enclosure 1).

In addition to the other departments for whom the President recommended membership, the Secretary of Housing and Urban Development was invited to designate a representative (Enclosure 2). This group is composed of departments having direct program involvement in Alaska. Three other offices were invited to participate as

observers or liaison members: the Office of Science and Technology, the National Science Foundation, and the Bureau of the Budget.

Additionally, several select groups were identified as members for communication and coordination. These include the State of Alaska, the Federal Field Committee for Development Planning in Alaska, the Department of the Interior Field Committee in Alaska, and the Conservation/Industry "Ad Hoc" Committee.

Since its inception on June 5, 1969, this Government-wide group has met five times, considering in succession (1) the extent of present Federal involvement in Alaska and a general review of environmental, transportation, and social problems attending oil development (June 5); (2) the application by the Trans Alaska Pipeline System for an 800-mile right-of-way from the North Slope to Valdez (June 17); (3) a presentation by industry regarding the extent of their planning and preparation (July 1); an application by the State of Alaska to select a portion of the route (Livengood to the Yukon River) for a secondary highway (August 12); and (5) the two-volume set of proposed environmental stipulations applying to the overall pipeline right-of-way (September 11).

Accomplishments

The attention of the Task Force has focused primarily on the application by the Trans Alaska Pipeline System (TAPS), a joint venture of Atlantic Pipeline Company, BP Pipeline Corporation and Humble Pipeline Company, which was received on June 9, 1969 by the Anchorage office of the Bureau of Land Management. A copy of the application and an accompanying letter to Under Secretary of the Interior Train were hand-delivered to the Task Force on June 10, 1969.

Simultaneously with the receipt of the application, the Task Force submitted to the Trans Alaska Pipeline a set of 79 questions reflecting the concerns of Department of the Interior agencies. The TAPS' answers to these questions were received on June 20. Following an examination

of the answers and two meetings with industry, Interior bureaus submitted to the Under Secretary individual assessments upon TAPS' "state of technological readiness." The unanimous judgment by Interior bureaus was that TAPS had not adequately finalized their own plans on a technological level for the construction of the pipeline or ancillary projects. Each bureau raised serious questions regarding the impending time frame and expressed concern over the industry's ability to use data from their own ongoing studies.

The application requested affirmative action "by July." An interim response was made by Secretary Hickel on June 27, which gave assurance that the application would be granted when several conditions, reflecting environmental, legal, procedural and native interest concerns were met (Enclosure 3).

In early July, an extensive team of Interior, other Federal, and State officials prepared an initial draft of stipulations to accompany and condition the granting of the right-of-way. This set arrived in Washington on July 22; was examined, revised, edited, rebound and distributed to the State of Alaska, industry, outside members of the Task Force, and the interested public on August 8. Their review and comment were solicited by September 15.

On July 22, the State of Alaska requested a modification of the Alaskan land freeze for the purpose of building a secondary highway from Livengood to the Yukon River which, by agreement, TAPS would build and the State accept following completion of adjacent pipeline construction. On July 29, the Secretary indicated to the Senate and House Committees on Interior and Insular Affairs his intention of lifting the freeze for this purpose. The Chairmen of the respective committees did not indicate disapproval, and the freeze order was modified for this 53-mile highway section on August 13.

On August 29-30 public hearings on the pipeline application were held at the University of Alaska at Fairbanks. The hearing was presided over by the Under Secre'ary

and an Interior panel composed of the Assistant Secretary for Fish and Wildlife, Parks, and Marine Resources, the Director of the Geological Survey, the Department of the Interior Regional Coordinator, the State Director, Bureau of Land Management, and a Special Assistant to the Secretary.

Outstanding Problems—The Scope of Concern

The application for an 800-mile pipeline right-of-way across Alaska has brought together a complex and interrelated scope of environmental, technological, social, and legal problems, the solution to some of which are still outstanding. This section outlines and summarizes the parameters of these concerns.

Permafrost

Permafrost is perpetually frozen ground, of rock, soil, and ice that has remained below freezing for two or more years. It underlies a significant percent of the State of Alaska. *Tundra* may be considered the topmost layer of soil and vegetation that insulates the permafrost, alternately thawing in summer and freezing in winter. It exists in a state of quasi- (or what is commonly termed delicate) equilibrium. A disturbance to the insulating mat of vegetation disturbs the entire thermal regime, causing it to thaw in a manner that it otherwise would not. This thawing can cause differential subsidence, erosion, and related frost action of severe and major extent. A Geological Survey Professional Paper, published in July, examines the geologic/environmental factors unique to the Arctic which present acute engineering problems for design, building, and maintenance of construction projects.

The problems attendant on pipeline construction are made more severe by the temperature of the oil which is anticipated to arrive at wellhead at 160° F. A recent Geological Survey computer analysis on permafrost degradation adjacent to a hot pipeline calculates that a melt zone of at least 25 feet deep in the first year could be expected.

Other calculations including those of industry have estimated this melt zone in excess of 300 feet with time.

A working group of Federal, State of Alaska and industry specialists is presently examining possible solutions to this problem. Alternative solutions include routing the pipeline around, or elevating it above, soil areas of high moisture content. TAPS is conducting a further core drilling investigation of soil conditions in high moisture areas.

Gravel

Gravel is used as an insulating layer to maintain the thermal equilibrium of permafrost underlying construction activities. The total requirement for gravel is estimated by TAPS to total 13, 329,000 cubic yards. An acceptable source of gravel must be found.

Seismic activity

Large segments of the pipeline route cross areas of known seismic activity. The historic frequency and magnitude of major earthquakes are most severe near Valdez. Some faults, crossing other portions of the route, may be subject to slow, earth adjustments or "creeping." The design, engineering, and location of the pipeline must take into consideration both types of seismic movement.

Solid and Human Waste

The rates of biological degradation of wastes, both solid and liquid, are extremely slow in the Arctic, and waste treatment presents unique and difficult problems. The proposed stipulations specify that all disposal systems shall meet the standards of the Alaska State Department of Health and Welfare, U.S. Public Health Service, and the Federal Water Pollution Control Administration.

Water Pollution

The most critical danger for water pollution is that resultant from an oil spill. TAPS has indicated that the capacity of the pipeline is 500,000 gallons per mile. Spillage

of one-mile capacity of this pipeline would equal nearly twice the total amount of oil lost at Santa Barbara.

The operation of tankers, in either the Beaufort Sea or Prince William Sound, produces a related problem. Inbound, the tankers will be loaded with ballast, sea water mixed with oil dredge, that must be discharged prior to loading of crude. It is necessary for the Task Force to receive firm assurance that pipeline technology, construction and operation have been perfected to give maximum standards against fresh and salt water pollution.

Fish and Wildlife

The Brooks Range and North Slope of Alaska are accurately regarded as the last and, until recently, most untouched wilderness areas in North America. It is certain that human and industrial activity will have effects on the presence and migration of some species. The Department of the Interior is continuing to work closely with the State of Alaska and private interests to minimize disturbances to the fish and wildlife along the right-of-way.

ALASKAN NATIVES

The low income, substandard living conditions, and absence of opportunity for Alaska natives have been well documented. These considerations and the potential opportunities that oil developments might provide, have been given important consideration by the Task Force. The proposed stipulations include strong provisions to insure against discrimination; to insure full and equal opportunity; to insure equal job advertising in Alaska; to insure preemployment and on-the-job training; and to allow for suspension or cancellation of the permit in the event of noncompliance.

LEGAL AND PROCEDURAL MATTERS

The legal and procedural problems inherent in the TAPS application are summarized below:

The Land Freeze: Public Land Order 4582, signed on January 17, 1969, withdraws all public and otherwise unreserved lands in Alaska from appropriation or disposition for the determination and protection of the rights of Alaskan natives. During his confirmation hearings, the Secretary of the Interior stated that he would not revoke or modify the order except (1) in case of public necessity and in order to serve important purposes; and (2) that in such cases he would first seek the concurrence of the Interior Committee of the Congress.

As a step precedent to granting the application, therefore, the Secretary must inform the respective committees of his intention to lift the freeze for this 800-mile right-of-way.

Responses by Alaskan Natives: The Secretary's agreement with the Senate Committee does not mention obtaining native village comments on nearby projects. Chairman Aspinall, however, under certain circumstances in the past, has recommended that notice of the project be given to native villages located within one mile of the project; and that their comments be obtained and evaluated prior to approval.

The Secretary of the Interior, by telegram, on June 23, has informed six native associations of the TAPS' application and requested their comments. Two preliminary and no final responses have been received.

Mapping Requirements: The authority under which the pipeline right-of-way has been requested (43 CFR 2230) requires that the application be accompanied by a map showing the survey of the right-of-way properly located with respect to public land surveys, and showing courses and distances of the center line. Similar requirements exist for material sites (such as gravel) and for special use permits.

These requirements did not accompany the application, and are still outstanding. By regulation it is necessary to know where a right-of-way is going before an application can be approved. TAPS indicates that it expects to comply with this requirement by a date in November.

Likewise, the sites for pumping plants must be described and located, with the amount of land indicated and all structures in it depicted that are necessary for proper use of the right-of-way. This requirement has not been satisfied.

Width of the right-of-way: The application requests a 54-foot wide pipeline right-of-way together with an additional parallel and adjacent 46-foot right-of-way. Further, for all sections between Livengood and the North Slope, the applicants request another 100-foot right-of-way for a construction road, making a total requirement of 200 feet in width for that distance.

The authorizing statute (30 U.S.C. 185) limits pipeline rights-of-way to 25 feet on either side of center line, or to a total of 54 feet. Discussions are continuing between the Department and TAPS to determine the exact method by which TAPS will acquire the additional 46 feet for the pipeline right-of-way and the further addition of a 100-foot right-of-way for a construction road.

Previously Withdrawn Areas: In addition to the public domain, the proposed right-of-way crosses land under the jurisdiction of the Federal Power Commission (Ramparts), the Department of the Air Force (Eielson Air Force Base), the Department of the Army (Fort Greely), the U.S. Forest Service (Chugach National Forest), and the State of Alaska (State selected lands). Both concurrence and conditioning stipulations from these agencies will be required before rights-of-way can be approved across lands under their jurisdiction. The Task Force is working closely with these agencies on this matter.

Material and Borrow Needs: In addition to the mapping requirements previously discussed, permission for the excavation of borrow material is dependent upon a sale made either through negotiated procedures, or by advertising through competitive bidding. In either case, an appraisal of fair market value is required.

Federal regulations (43 CFR 23) additionally require a mining and rehabilitation plan for each and every material site be submitted, and approved, prior to removal or disturbance of the surface.

Disputed Lands: The State of Alaska has applied for blanket selection of lands in the area of Valdez. These lands are subject to the freeze imposed by Public Land Order 4582 on January 17, 1969, and have not been approved for State selection. On July 22, 1969, a private protest was filed against State selection with the Anchorage Bureau of Land Management Office. The protest claims title to certain tracts in the Valdez area, which have been selected by the State, and over which the pipeline corridor has been planned.

The State of Alaska, as the adverse party in interest, has advised the Bureau of Land Management that it will take no action on this protest. Consequently, the Anchorage office of the Bureau of Land Management will reject the protest, allowing the protestant to appeal his case to the Director, then possibly the Secretary of the Interior, and ultimately the District courts.

In addition to this protest, a suit was filed on July 14, 1969 to quiet title to other lands adjacent to those under protest, and involved with the development of the pipeline terminus areas.

Current Status

An outline of the major concerns regarding the pipeline application is contained in Secretary Hickel's letter to TAPS of June 27 (Enclosure 3). This letter provides a check list of the category of requirements, as yet outstanding, that must be satisfied:

1. *Law and regulation:* The standard requirements for mapping and power plant descriptions must be met. TAPS estimates this will be provided by a date in November.
2. *Environmental concerns:* Engineering design and pipeline location must be such that thermal degradation in permafrost areas is avoided.

3. *Native interests:* Substantial safeguards for Alaskan natives, as well as for environmental values, are provided for in the proposed stipulations. It is expected that the Task Force will finalize these stipulations by the first of October. Stipulations for lands under military jurisdiction are also in the final stages of preparation.

4. *Committees of Congress:* The Interior and Insular Affairs Committees must be informed of the Secretary's intention to lift the freeze for the pipeline right-of-way. This is a necessary step precedent to granting the application and could be accomplished by the first of November, perhaps sooner. A satisfactory response from each committee must be obtained.

5. *The State of Alaska:* Governor Miller has been provided with a set of the August edition of the stipulations and his review and comments requested.

The policy of the Department continues to be to give priority attention to the application and to process it as rapidly as the public interest permits.

Future Developments

Following the finalizing of the stipulations for the Trans Alaska Pipeline, the immediate focus of the Task Force will turn to the considerably broaded problems weighing upon the proper administration of the public domain in Alaska—particularly those on the North Slope—involved with mineral and seismic exploration, drilling, and oil and related natural resource development. This effort will be a natural outgrowth and expansion of the present concentration on the pipeline right-of-way, and a great number of the stipulations currently under development for the pipeline can be appropriately extended to the larger problems arising from future natural resource development.

In our progress we have been guided by the view that oil development and environmental protection are not inconsistent. We have attempted in our proceedings to reach an equitable balance between the just concerns . . . and

timetables . . . of industry, and the just concerns . . . and timetables . . . of the public.

We have developed within the Task Force a close spirit of understanding and cooperation between government, conservation, and industry representatives. This understanding and cooperation is developing into a new perception of the course of public responsibility and with it a case history in environmental management.

/s/ Russell E. Train
Russell E. Train
Chairman

TRANS ALASKA PIPELINE SYSTEM
2100 Travis Street
Houston, Texas 77002
Telephone (713) 222-7294
Telex 762 330

APPLICATION FOR PIPELINE RIGHT-OF-WAY

December 22, 1969

Director
Bureau of Land Management
Department of Interior
Interior Building
Washington, D.C. 20240

Dear Sir:

Atlantic Pipe Line Company, BP Pipe Line Corporation, Humble Pipe Line Company, Mobil Pipe Line Company, Home Pipe Line Company, Phillips Petroleum Company, Union Oil Company of California and Amerada Hess Corporation submit this application for an oil pipeline right-of-way, for the construction of an oil pipeline system extending from a point in the north line of Township 8 North, Range 14 East, Umiat Meridian, to a point in Section 13, Township 9 South, Range 7 West, Copper River Meridian.

This application is made pursuant to the regulations contained in Title 43, CFR, Subpart 2234, and in support

of such application, the following is submitted. This application supplements and amends a prior filing of June 10, 1969, and is submitted in such a form to replace the prior filing and is complete within itself.

1. Applicants agree that the right-of-way, if approved, will be subject to the terms and conditions of the applicable regulations contained in Title 43, CFR, Subpart 2234, except that applicants respectfully request that the requirement that the application be filed in accordance with Title 43, CFR, § 1821.2 be waived to permit the filing of this application directly with the Director of the Bureau of Land Management, Washington, D.C. This waiver is being requested because of the complexities of the permit being sought and the fact that the requested right-of-way will traverse more than one land district jurisdiction.

2. This application is made pursuant to Section 28 of the Mineral Leasing Act of February 25, 1920 (41 Stat. 449) as amended by the Acts of August 21, 1935, and August 12, 1953 (49 Stat. 678; 67 Stat. 557; 30 USC 185) and regulations promulgated thereunder.

3. The primary purpose for which said right-of-way will be used is the construction, maintenance and operation of a 48″ diameter pipeline system and related appurtenances for the transportation of liquid crude petroleum from the North Slope of Alaska to a marine terminal at Port Valdez.

4. As required by Title 43, CFR, § 2234.1-2 (b) the following listed documents are being submitted, or have been submitted as noted below, for the respective applicants:

Atlantic Pipe Line Company

(a) Certified copy of corporate charter (previously submitted and on file in BLM Qualification File No. AA 5722, State Office, Anchorage, Alaska).

(b) Certificate of qualification to do business in Alaska (on file in aforesaid BLM File No. AA 5722).

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this

application (on file in aforesaid BLM File No. AA 5722) and to execute the Power of Attorney listed as (e) below.

(d) A common carrier stipulation (on file in aforesaid BLM File No. AA 5722).

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws (previously filed BLM No. AA 5722).

BP Pipe Line Corporation

(a) Certified copy of corporate charter (previously submitted and on file in BLM Qualification File No. AA 5722, State Office, Anchorage, Alaska).

(b) Certificate of qualification to do business in Alaska (on file in aforesaid BLM File No. AA 5722).

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application (on file in aforesaid BLM File No. AA 5722).

(d) A common carrier stipulation (on file in aforesaid BLM File No. AA 5722).

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws (previously filed BLM No. AA 5722).

Humble Pipe Line Company

(a) Certified copy of corporate charter (previously submitted and on file in BLM Qualification File No. AA 5722, State Office, Anchorage, Alaska).

(b) Certificate of qualification to do business in Alaska (on file in aforesaid BLM File No. AA 5722).

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application (on file in aforesaid BLM File No. AA 5722).

(d) A common carrier stipulation (on file in aforesaid BLM File No. AA 5722).

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws (previously filed BLM No. AA 5722).

Note: Copies or duplicate originals of the instruments referred to above as having been previously filed in BLM File No. AA 5722, are attached herewith for your ready reference.

Mobil Pipe Line Company

(a) Certified copy of corporate charter.

(b) Certificate of qualification to do business in Alaska.

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application.

(d) A common carrier stipulation.

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws.

Home Pipe Line Company

(a) Certified copy of corporate charter.

(b) Certificate of qualification to do business in Alaska.

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application.

(d) A common carrier stipulation.

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws.

Phillips Petroleum Company

(a) Certified copy of corporate charter.

(b) Certificate of qualification to do business in Alaska.

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application.

(d) A common carrier stipulation.

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws.

Union Oil Company of California

(a) Certified copy of corporate charter.

(b) Certificate of qualification to do business in Alaska.

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application.

(d) A common carrier stipulation.

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws.

Amerada Hess Corporation

(a) Certified copy of corporate charter.

(b) Certificate of qualification to do business in Alaska.

(c) Resolution of Board of Directors wherein officers of said corporation are given sufficient authority to make this application.

(d) A common carrier stipulation.

(e) Power of Attorney authorizing the undersigned to execute this application.

(f) Corporate By-Laws.

5. Applicants are submitting herewith maps showing a survey of the requested right-of-way as follows:

(a) Alignment map AL-00-G2, dated August, 1969, revision # 1 dated October 31, 1969, sheets 1 through 77.

(b) Alignment map AL-00-G2, dated September 25, 1969, sheets 77A through 77F.

Sheets 77A through 77F of the Alignment map will be replaced by aerial photo based maps currently being prepared.

6. Your applicants request that they be granted promptly the right-of-way permit in accordance with the terms and conditions set out in 43 CFR § 2234.1-3 (c) and such other specified conditions as may be found to be necessary in order to render its use compatible with the public interest.

A check in the amount of Ten Dollars ($10.00) is enclosed with this application.

Concurrently with this application, applicants are submitting separately applications for special land use permits, one for additional access and construction space along the pipeline, which together with this right-of-way, will make available for applicants construction a strip of land 100 feet in width and a special land use permit 200 feet in width to contain the pipeline construction surface and haul road.

If you have any questions concerning this application or if you desire any further information, please wire or call collect, Kenneth P. Fountain, 2100 Travis Street, Houston, Texas 77002, telephone (713) 222-6166.

Respectfully submitted,

ATLANTIC PIPE LINE COMPANY
BP PIPE LINE CORPORATION
HUMBLE PIPE LINE COMPANY
MOBIL PIPE LINE COMPANY
HOME PIPE LINE COMPANY
PHILLIPS PETROLEUM COMPANY
UNION OIL COMPANY OF CALIFORNIA
AMERADA HESS CORPORATION

BY:
Their Agent and Attorney-in-Fact

APPENDIX C
Page 1 of 2 pages

(May 1968) (Formerly 4-329) DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

BUDGET BUREAU NO. 42-R1424

Land Office and Serial Number

SEE INSTRUCTIONS ON REVERSE

SPECIAL LAND-USE APPLICATION AND PERMIT

1. Name (first, middle initial, and last) Address (include zip code) Care of
Atlantic Pipe Line Company
BP Pipe Line Corporation
Humble Pipe Line Company (contd above)
Trans Alaska Pipeline System
2100 Travis Street
Houston, Texas 77002

2a. Give the legal description of the public lands for which you are applying

This application is for an additional access and construction space extending 11 feet on one side and 35 feet on the opposite side of an oil pipeline right-of-way extending from a point in the north line of Township 8 North, Range 14 East, Umiat Meridian, to a point in Section 13, Township 9 South, Range 7 West, Copper River Meridian as requested by Application For Pipeline Right-Of-Way dated December 22, 1969. (Maps of aforementioned pipeline right-of-way attached to application of December 22, 1969.

b. For how many years are you requesting this permit? (*Not to exceed five years*) Five

c. Are the lands adjacent to a highway? ☐ Yes ☐ No (*If "yes," complete the following*) In Part

Type of highway ☐ Federal ☒ State ☐ City | Highway number Elliot Highway
Richardson Highway

d. How many miles are the lands from the nearest city or town? 3.0 miles Delta Jct.; 1.5 miles Tenderfoot; 0.5 miles Wiseman; 4.5 miles Livengood; 6.0 miles Fairbanks; 4.0 miles North Pole; 4.0 miles Salcha; 2.0 miles Glennallen; 1.2 miles Copper Cen.; 1.0 miles [illegible]

3a. Are you 21 years of age or over? ☐ Yes ☐ No NOT APPLICABLE | b. Are you a citizen of the United States? ☒ Yes ☐ No

c. As applicant, are you a ☐ Partnership ☐ Association ☒ Corporation Eight separate corporations listed above

d. Are the statements required by Instruction Number 2 attached? ☐ Yes ☐ No Refer to BLM Qualifier File No. A-5722

e. As applicant, are you an agency of the ☐ Federal Government ☐ State Government ☐ Political subdivision of any State? NO

4. Have you examined the lands described above? [X] Yes [ ] No

5a. Are the lands now improved, occupied, or used? [ ] Yes [X] No *(If "yes," describe improvements and purposes, and identify users and occupants)*

b. Are there springs or water holes on the lands? [ ] Yes [ ] No *(If "yes," give particulars)*
UNKNOWN

c. What is the proposed source of water for domestic or other use?
NOT APPLICABLE

d. Do the lands contain minerals? [ ] Yes [ ] No *(If "yes," specify)*
UNKNOWN

e. Do the lands contain timber? [ ] Yes [ ] No *(If "yes," list species and volume of timber)*
Species and Volume Unknown

6a. What do you propose to use the lands for?
Additional access and construction space for the construction of an oil pipeline

b. What improvements do you intend to make on the lands? *(Describe improvements and attach drawings, if convenient)* Land will be cleared to facilit the construction of an oil pipeline as identified by Application For Pipeline Right-Of-Way dated December 22, 1

c. What is the estimated cost of proposed improvements?
$ UNKNOWN

d. What are the proposed sanitation facilities? In accordance with Paragraph G Trans Alaska Pipeline System Stipulations - United States Department of Interior dated September 1969

7. Are you making this application for your own use and benefit? [X] Yes [ ] No *(If "no," explain)*

8. Have you enclosed the filing fee of $10? [X] Yes [ ] No *(See Instruction Number 3)*

I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith.

George G. Hughes, Jr.

95

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96

APPENDIX C
Page 2 of 2 pages
Amerada Hess Corporation

Mobil Pipe Line Company
of Trans Alaska Pipeline System
2100 Travis Street
Houston, Texas 77002

to use the following-described lands: This application is for an additional access and construction space extending 11 feet on one side and 35 feet on the opposite side of an oil pipeli right-of-way extending from a point in the north line of Township 8 North, Range 14 E Umiat Meridian, to a point in Section 13, Township 9 South, Range 7 West, Copper River Meridian as requested by Application For Pipeline Right-Of-Way dated December 22, 196 (Maps of aforementioned pipeline right-of-way attached to application of December 22,

Section , Township , Range , Meridian, State of

for the purpose of

and subject to the following conditions:

1. This permit is issued for the period from , 19 , to , 19 , and is revocable for any breach of the conditions hereof. It is also revocable at the discretion of the authorized officer of the Bureau of Land Management, at any time, upon notice, if in his judgment the lands should be devoted to another use. The permit is subject to valid adverse claims heretofore or hereafter acquired.

2. The permittee shall pay annually, in advance, to the authorized officer as rental the sum of dollars, or such other sum as may be required if an adjustment of rental is made.

3. The permittee shall observe all Federal, State, and local laws and regulations applicable to the premises, and to the erection or maintenance of signs or advertising displays, including the regulations for the protection of game birds and game animals, and shall keep the premises in a neat, orderly, and sanitary condition.

4. The use or occupancy of the land under this permit shall commence within months from the date hereof and shall be exercised at least days each year.

5. The permittee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires, and to prevent the pollution of waters on or in the vicinity of the lands.

6. Authorized representatives of the Department of the Interior and other Federal agencies, and game wardens shall at all times have the right to enter the premises on official business.

7. The permittee shall not enclose roads or trails common in public use.

8. The permittee shall pay the United States for any damage to its property resulting from this use.

9. The permittee shall immediately notify the authorized officer of a change of address.

10. This permit is subject to all of the applicable provisions of the regulations (43 CFR, Subpart 2236) which are made a part hereof.

11. The permittee agrees to have the serial number of this permit marked or painted on each advertising display erected or maintained under the authority of such permit.

12. The permittee shall not cut any timber on the land without prior permission of the authorized officer.

13. This permit is subject to the provisions of Executive Order No. 10925 of March 6, 1961, as amended, which relate to the nondiscrimination clauses. A copy of this order may be obtained from the signing officer.

14. Special Conditions:

(Authorized Officer)

(Date) (Title)

INSTRUCTIONS

1. This application may be submitted to any local office of the Bureau of Land Management having jurisdiction over the lands. It must be submitted in *duplicate*.

2. An application by a partnership or association must be accompanied by a statement by each member that he is a citizen of the United States or has filed a declaration to become a citizen. An application by a corporation must be accompanied by a statement showing that the corporation is authorized to hold land in the State in which the land is located and that the person making the application is authorized to act for the corporation.

3. This application must be accompanied by a filing fee of governmental agency. Checks must be made payable the Bureau of Land Management.

4. If this application is for permission to erect an advertising display or sign, the applicant must furnish an accurate and fully descriptive diagram, sketch, or photograph (at least 3" x 5") of the sign or display to be used showing the dimensions, type of construction, wording, and the advertising material to be included. A plan of illumination, if any, and the name of the owner of the land, and (2) a photograph (at least 3" x 5") of the site on which the sign or display is to be erected.

96

97

APPENDIX D

Page 1 of 2 pages

BUREAU OF LAND MANAGEMENT

Land Office and Serial Number

SPECIAL LAND-USE APPLICATION AND PERMIT

SEE INSTRUCTIONS ON REVERSE

Name (first, middle initial, and last)	Address (include zip code)
Alyeska Pipe Line Company BP Pipe Line Corporation Humble Pipe Line Company (contd above)	Care of Trans Alaska Pipeline System 2100 Travis Street Houston, Texas 77002

2. Give the legal description of the public lands for which you are applying.
This application is for a special land use permit 200 feet in width to contain the pipeline construction surface and haul road from a point in the north line of Township 8 North, Range 14 East, Umiat Meridian, to a point in Section 7, Township 12 North, Range 10 West, Fairbanks Meridian, as referred to in part by Application For Pipeline Right-Of-Way dated December 22, 1969. (For routing of aforementioned haul road refer to Alignment Map AL-00-02, dated September 25, 1969.)

[redacted]

3. For how many years are you requesting this permit? (*Not to exceed five years*) Five

4. Are the lands adjacent to a highway? ☐ Yes ☒ No (*If "yes," complete the following*)

a. Type of highway ☐ Federal ☐ State ☐ City NOT APPLICABLE | Highway number NOT APPLICABLE

d. How many miles are the lands from the nearest city or town? 0.5 miles Wiseman, Alaska
4.5 miles Livengood, Alaska

5. a. Are you 21 years of age or over? ☐ Yes ☐ No NOT APPLICABLE | b. Are you a citizen of the United States? ☒ Yes ☐ No

c. As applicant, are you a ☐ Partnership ☐ Association ☒ Corporation Eight separate corporations listed above

d. Are the statements required by Instruction Number 2 attached? ☐ Yes ☐ No Refer to BLM Case File No. AA5722

e. As applicant, are you an agency of the ☐ Federal Government ☐ State Government ☐ Political subdivision of any State? NO

6. Have you examined the lands described above? ☒ Yes ☐ No

5a. Are the lands now improved, occupied, or used? ☐ Yes ☒ No *(If "yes," describe improvements and purposes, and identify users and occupants)*

b. Are there springs or water holes on the lands? ☐ Yes ☐ No *(If "yes," give particulars)*
UNKNOWN

c. What is the proposed source of water for domestic or other use?
NOT APPLICABLE

d. Do the lands contain minerals? ☐ Yes ☐ No *(If "yes," specify)*
UNKNOWN

e. Do the lands contain timber? ☒ Yes ☐ No *(If "yes," list species and volume of timber)*
Species and Volume Unknown

6a. What do you propose to use the lands for?
Construction of Haul Road

b. What improvements do you intend to make on the lands? *(Describe improvements and attach drawings, if convenient)* Land will be cleared and 28 feet gravel surface road constructed with necessary drainage and timber trestle bridges where required.

c. What is the estimated cost of proposed improvements?
$100,000,000

d. What are the proposed sanitation facilities? In accordance with Paragraph G Trans Alaska Pipeline System Stipulations - United States Department of Interior dated September 1969.

Are you making this application for your own use and benefit? ☒ Yes ☐ No *(If "no," explain)*

8. Have you enclosed the filing fee of $10? ☒ Yes ☐ No *(See Instruction Number 3)*

I CERTIFY That the information given by me in this application is true, complete, and correct to the best of my knowledge and belief and is given in good faith.

George C. Hughes, Jr.
Agent and Attorney-In-Fact

97

APPENDIX D
Page 2 of 2 pages

Mobil Pipe Line Company
Amerada Hess Corporation

Trans Alaska Pipeline System
60 Travis Street
Houston, Texas 77002

to use the following-described lands: This application is for an additional access and construction space extending 11 feet on one side and 35 feet on the opposite side of an oil pipeline right-of-way extending from a point in the north line of Township 8 North, Range 14 East, Umiat Meridian, to a point in Section 13, Township 9 South, Range 7 West, Copper River Meridian as requested by Application For Pipeline Right-Of-Way dated December 22, 1969. (Maps of aforementioned pipeline right-of-way attached to application of December 22, 1969

Section , Township , Range , Meridian, State of

for the purpose of

and subject to the following conditions:

1. This permit is issued for the period from , 19 to , 19 , and is revocable for any breach of the conditions hereof. It is also revocable at the discretion of the authorized officer of the Bureau of Land Management, at any time, upon notice, if in his judgment the lands should be devoted to another use. The permit is subject to valid adverse claims heretofore or hereafter acquired.

2. The permittee shall pay annually, in advance, to the authorized officer as rental the sum of dollars, or such other sum as may be required if an adjustment of rental is made.

3. The permittee shall observe all Federal, State, and local laws and regulations applicable to the premises, and to the erection or maintenance of signs or advertising displays, including the regulations for the protection of game birds and game animals, and shall keep the premises in a neat, orderly, and sanitary condition.

4. The use or occupancy of the land under this permit shall commence within months from the date hereof and shall be exercised at least days each year.

5. The permittee shall take all reasonable precautions to prevent and suppress forest, brush, and grass fires, and to

6. Authorized representatives of the Department of the Interior and other Federal agencies, and game wardens shall at all times have the right to enter the premises on official business.

7. The permittee shall not enclose roads or trails commonly in public use.

8. The permittee shall pay the United States for any damage to its property resulting from this use.

9. The permittee shall immediately notify the authorized officer of a change of address.

10. This permit is subject to all of the applicable provisions of the regulations (43 CFR, Subpart 2236) which are made a part hereof.

11. The permittee agrees to have the serial number of this permit marked or painted on each advertising display erected or maintained under the authority of such permit.

12. The permittee shall not cut any timber on the lands without prior permission of the authorized officer.

13. This permit is subject to the provisions of Executive Order No. 10355 of May 6, 1961, as amended, which prohibits

lands.

14. Special Conditions:

obtained from the signing officer.

(Authorized Officer)

(Date) (Title)

INSTRUCTIONS

1. This application may be submitted to any local office of the Bureau of Land Management having jurisdiction over the lands. It must be submitted in *duplicate*.

2. An application by a partnership or association must be accompanied by a statement by each member that he is a citizen of the United States or has filed a declaration to become a citizen. An application by a corporation must be accompanied by a statement showing that the corporation is authorized to hold Land in the State in which the land is located and that the person making the application is authorized to act for the corporation.

governmental agency. Checks must be made payable to the Bureau of Land Management.

4. If this application is for permission to erect an advertising display or sign, the applicant must submit an accurate and fully descriptive diagram, sketch, or photograph (at least 3" x 5") of the sign or display. The diagram should show the dimensions, type of construction, and color, the advertising material to be included, the duration of the application, if any, and the proximity of the sign or display to the land; and 2) a photograph (at least 3" x 5") of the site on which the sign or display is to be erected.

98

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CHRONOLOGY

FEDERAL TASK FORCE ON ALASKAN OIL DEVELOPMENT

April 1969 through February 1970

1969

April

18 —North Slope Task Force established within the Department of the Interior by Secretary.

29 —Meeting of Task Force Working Group under Assistant Secretary, FWP&MR.

May

2 —Meeting of Interior Task Force with Humble, BP, and ARCO representatives.

8 —Meeting of Interior Task Force to brief Washington Conservation Society.

9 —Under Secretary Train departs on five-day inspection trip of pipeline route and North Slope.
—President Nixon expands Task Force into an All-Government Group.

22 —Meeting with Pipeline Conservation/Industry "Ad Hoc" Committee.
—Full meeting of Alaska Field Committee in Anchorage.

June

5 —First meeting Federal Task Force on Alaskan Oil Development.

10 —Set of 79 questions addressed to Trans Alaska Pipeline System.

11 —Application received from TAPS for 800-mile right-of-way from Prudhoe Bay to Valdez.

17 —Second Federal Task Force meeting.

19 —DOT report on Valdez received.

20 —TAPS submits answers to 79 questions.

23 —Telegram sent to Alaska Native associations requesting their views on pipeline.

27 —Secretary Hickel responds to TAPS that application will be granted when several conditions reflecting environmental, legal, procedural and native interest concerns are met.

29 —Interior Task Force assesses TAPS' 'state of technological readiness.'

July

1 —Third Task Force meeting.
—Alaska Field Group starts first draft of stipulations. State of Alaska and other Federal offices participating.

7 —Departmental library completes first bibliography of North Slope topics.

8 —Working Group meeting with TAPS.

17 —Conservation/Industry "Ad Hoc" Committee meets—NSOB.

18 —Alaska Field Group submits first draft of stipulations for Interior Task Force to revise.
—Under Secretary meets with TAPS management committee.

22 —TAPS request freeze modification for 53-mile Livengood-Yukon River road.
(Interior Task Force meeting continuously in this period on the TAPS stipulations.)

29 —First edition of stipulations finished and bound.

31 —USGS Professional Paper #678 "Permafrost and Related Engineering Problems in Alaska" published.

August

5 —Meeting with Alaska Natives regarding pipeline application.

6 —Meeting with Governor Miller to discuss stipulations.

12 —Fourth Task Force meeting.

13 —Freeze lifted for Livengood-Yukon River Road.
(Interior Task Force continues work on 2nd draft of stipulations—Alaska Field Group examining proposed route of pipeline.)

22 —Preliminary Report of Lachenbruch Study is received.

24-27 —Alaska Science Conference on Petroleum Development in the Arctic.

29-30 —Departmental hearings in Fairbanks, Alaska.

30 —Industry-Interior permafrost working group set up under Geological Survey.

31 —"August edition" of stipulations completed.

September

9 —Task Force Supplementary request sent to Congress.

10 —September $900 million North Slope lease sale.

11 —Fifth Task Force meeting.

15 —Preliminary Report to the President on the Task Force completed, and sent to White House.
(Final Interior effort on third draft of stipulations.)

29 —Third draft—pipeline stipulations completed and signed by Secretary.

30 —Letters to Senate and House Interior Committees re: Freeze lift for pipeline.

October

8 —TAPS briefs House Interior Committee on pipeline.

9 —Briefing to Conservationist "Ad Hoc" Committee on pipeline.

16 —Under Secretary testifies before Senate Interior Committee hearing on TAPS.

17 —"Pipeline Coordinator" hired by BLM, Anchorage.

21 —Under Secretary testifies before House Interior Committee hearings on TAPS.

24 —Department receives set of questions from Senate Interior Committee.

28 —Under Secretary testifies before House Interior Committee on TAPS.

31 —Under Secretary testifies before Dingell's Subcommittee on Fisheries and Wildlife Conservation.
—Interior Task Force meeting re: progress on pipeline.

November

12 —Under Secretary testifies before House Interior Committee on TAPS.

18 —TAPS management committee meets with Secretary Hickel.

20 —Answers to 40 questions transmitted to Senate Interior Committee.

26 —Under Secretary testifies before House Interior Committee on pipeline.

December

3 —Senate Appropriation hearings on TAPS financing.

4 —House Appropriation hearing on TAPS financing.

9 —Letter to Mrs. Hansen indicating that Department will charge TAPS for "extraordinary costs".

11 —Senate Interior Committee indicates no objection to freeze lift for pipeline.

16 —House Interior Committee indicates no objection to freeze lift for pipeline.

23 —Interior Task Force meeting to discuss future operations.

24 —Under Secretary prepares Interior "Status Report" on pipeline.

26 —BLM receives $1,250,000 for pipeline inspection. Interior Task Force receives $2,155,000 overall.

1970

January

5 —Conservation "Round-table" presentation by Under Secretary on pipeline.

6 —Sixth meeting—Federal Task Force.

7 —Freeze lifted by Secretary Hickel for pipeline right-of-way.

12 —Geological Circular No. 632, "Some Estimates of the Thermal Effects of a Heated Pipeline in Permafrost", published.
—Land-use Rules Review Committee established within Task Force.

20 —Special Land Use Permit filed by TAPS for road from Yukon to North Slope.

22 —Task Force meeting with Corps of Engineers and CRREL, re: arctic pipeline construction.

23 —Work Group meeting to discuss Arctic National Wildlife Refuge.

26 —Land-use Rules Review Committee established with Task Force by Under Secretary.

February

2 —Second meeting with Corps of Engineers on permafrost technology.

6 —Task Force Land-use Rules Review Committee meeting.
—Interior Task Force meeting to introduce Messrs. Silcock and Turner.

9 —Bob Ebel, OOG, briefs Task Force on Soviet pipeline technology; together with film.

12 —Task Force meeting to establish "extraordinary costs" to be assessed to TAPS.

19 —Senate Appropriation subcommittee hearings—BLM TAPS inspection funds $2,000,000.

20 —House Appropriation subcommittee hearings—BLM TAPS inspection funds $2,000,000.
—Technical Advisory Board established within the Task Force to include CRREL.

25 —BSF&W/BCF joint study on environmental impact of oil development on the North Slope in final draft.
—Conservationist "Ad Hoc" Committee briefed on pipeline progress.

26 —Task Force Rules Review Committee meeting.

27 —Review of stipulations with suggested alterations received from BLM, Anchorage.
—Council on Environmental Quality briefed on pipeline.

Applications For Pipeline Right-of-way And Ancillary Land Uses—Prudhoe Bay To Valdez, Alaska
Application By State of Alaska For Right-of-way For Highway

STATEMENT OF REASONS FOR APPROVAL

Department Procedures

After the discovery of oil on the North Slope of Alaska, the President established the Federal Task Force on Alaskan Oil Development, composed of representatives of various bureaus of the Department of the Interior and other Federal agencies, to consider the ramifications of the discovery.

An application for an oil pipeline right-of-way from the North Slope to Valdez, Alaska, was filed in June 1969 by three oil companies. The application has since been amended. At present, the applicants are Amerada Hess Corporation, ARCO Pipeline Company, Humble Pipeline Company, Mobil Pipeline Company, Phillips Petroleum Company, Sohio Pipeline Company and Union Oil Company of California. Their agent is Alyeska Pipeline Service Company. These companies are jointly and severally referred to hereinafter as "the applicants." The trans-Alaska pipeline system which the applicants propose to construct is referred to hereinafter as "the Alyeska proposal."[1] Under the auspices of the Task Force and the Department of the Interior, many investigations have been conducted and studied, with the result that the technical feasibility of the pipeline is now established. After many months of study, the Task Force developed Stipulations to be included in the terms and conditions of any right-of-way permit which the Department may grant for the trans-Alaska pipeline.

[1] The State of Alaska proposes to construct a State highway from the Yukon River to the North Slope. This proposal is referred to hereinafter as "the State proposal." Where both proposals are jointly discussed, they are referred to as "the proposals."

In August 1969, the Department conducted a two-day public hearing at Fairbanks to acquaint the public with the nature of the pipeline and to seek the public's views concerning it.

A Draft Environmental Impact Statement on the proposals, prepared by the Department, was made public on January 15, 1971. Copies of the Draft Statement were sent to appropriate Federal agencies [2] for review and comment. Public hearings on the Draft Statement were held at Washington, D.C., on February 16-18, 1971, and Anchorage, Alaska, on February 24-March 1, 1971. At the hearings, oral testimony was received from 297 individuals. The hearing record was held open until March 22, 1971, during which time additional testimony was received.[3] The written testimony entered into the record represented the views of 2,731 additional individuals and groups. After the hearing record was closed, an estimated 30,000 written communications concerning the proposals were received by the Bureau of Land Management.

Comments on the Draft Statement were received from the Office of Emergency Preparedness, the Federal Power Commission, the Department of Defense, the Department of Agriculture, the Environmental Protection Agency, the Department of Transportation, the Department of Commerce, and the Department of Health, Education and Welfare. The information obtained from the public and the comments of the agencies were thoroughly reviewed and considered in the preparation of the Final Environmental Impact Statement.

[2] Dept. of Agriculture; Dept. of Defense; Dept. of Transportation; Dept. of Commerce; Dept. of Health, Education and Welfare; Office of Science and Technology; Office of Management and Budget; Office of Emergency Preparedness; Council on Environmental Quality; Environmental Protection Agency.

[3] The testimony and exhibits fill 37 volumes totaling 10,074 pages.

To prepare the Final Environmental Impact Statement, the Department utilized various bureaus within the Department, including the bureaus of Land Management, Indian Affairs, Sport Fisheries and Wildlife, and Outdoor Recreation, the National Park Service, the Office of Oil and Gas and the Geological Survey. Other agencies involved were: Department of Commerce, Department of Transportation, Department of Defense, Environmental Protection Agency, Water Resources Council, Corps of Engineers, Federal Power Commission, Office of Emergency Preparedness, Atomic Energy Commission, Council on Environmental Quality.

In preparing the Final Statement, the Department considered the information obtained through the public hearings and the comments received from the public and Federal agencies with respect to the Draft Statement. To supplement this, the Department sought additional information from the State of Alaska and the Canadian Government, and also contracted with private consultants [4] for data on economic and energy supply aspects of pipeline development and on the Alaska Natives. Among the comments and reports received were those of the State of Alaska, the Alyeska Pipeline Service Company, the Canadian Government, the Council of Economic Advisers, the Office of Emergency Preparedness, the Department of Defense, the Coast Guard, the Department of Commerce and the Department of the Treasury. The following Interior agencies also furnished data: Bureau of Mines, Geological Survey, Office of Economic Analysis and the Office of Oil and Gas. These studies are included in the Department's report

[4] The private consultants are: Education Systems Resources Corporation with a study of the impact of proposed trans-Alaska pipeline on Alaska Native population; Mr. R. L. Gordon, of the Pennsylvania State University, who studied the future demand for petroleum in the United States; and the University of Alaska which prepared the study on the economic impact of the trans-Alaska pipeline on the economy of Alaska.

entitled, "An economic analysis of the economic and security aspects of the trans-Alaska pipeline" which was published with the Final Environmental Impact Statement. These materials were carefully reviewed within the Department of the Interior.

Received at this time from the applicants were a project description of the marine transport system, and supplements thereto. These were reviewed with utmost care by the Technical Advisory Board (an adjunct of the Federal Task Force on Alaskan Oil Development) and by personnel of the Department. These data and the Department's review of them were taken into consideration in the preparation of the Final Statement.

The Final Environmental Impact Statement, comprising six volumes, was released to the public on March 20, 1972, together with a three-volume analysis of the economic and security aspects of the Alyeska proposal. The Final Statement includes a summary and analysis of the comments which were received by the Department concerning the Draft Environmental Impact Statement. The Final Statement was also made available to the Council on Environmental Quality and other Government agencies. The Department announced at that time that it would take no action for at least forty-five days. This waiting period exceeds that set forth in the guidelines of the Council on Environmental Quality, namely thirty days. Since more than thirty days has elapsed since the Final Statement was made available to the Council and the public, the Department has complied with the guidelines of the Council on Environmental Quality in this regard and administrative action may now be taken.

Certain additional comments have been received by the Department since the publication of the Final Environmental Impact Statement. Among these are: (1) "Comments on the Environmental Impact Statement for Trans-Alaska Pipeline," compiled by the Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth, and submitted through their attorneys, and (2) "Interim Report No. 1, Towards an Environmental Impact Assessment of a Gas Pipeline from Prudhoe Bay, Alaska, to Alberta," submitted by Environmental Protection Board, sponsored by Gas Arctic Systems. All comments received have been reviewed and considered in reaching a decision on the proposals.

In determining whether to approve the Alyeska proposal and the State proposal, the Secretary of the Interior has thoroughly considered the essential information contained in the following materials upon which his determination is premised:

1. Information received from the applicants, including the project description and the description of their proposed marine transport system, and supplements thereto.
2. Studies and analyses submitted to, or prepared for or by, the Department in regard to the proposals.
3. Materials and conferences relating to national policies of the United States; consultations with other Federal officials, officials of the State of Alaska, and officials of the Government of Canada.
4. The information adduced at the public hearings which were held in Alaska in August 1969, including subsequent comments thereon.
5. The Draft Environmental Impact Statement prepared by the Department.
6. The information adduced at the public hearings on the Draft Statement, including materials submitted thereafter for the record.
7. Comments on the Draft Statement received by the Department from the public, Federal and State

agencies, and other sources within and without the Department.

8. The Final Environmental Impact Statement.

9. The Analysis of the Economic and Security Aspects of the Trans-Alaska Pipeline which accompanied the Final Statement.

10. Comments on the Final Statement and the Economic and Security Analysis received from all sources.

The Alyeska proposal is a highly complex project. In addition to the line of pipe itself and its appurtenant structures (such as pump stations, block and check valves, storage and surge tanks, gathering lines, corrosion protection devices, monitoring systems, etc.), additional facilities are involved. Principal among these are the terminal facilities at Valdez, a network of temporary access roads, airfields, materials sites, communication sites, construction camps, a gas pipeline to supply fuel to power several of the pump stations, harbor facilities at Valdez, and a marine transport system from Valdez to the West Coast of the United States.

Some of these facilities will be located on lands which are not within the jurisdiction of the Department of the Interior, and therefore it will be necessary for the applicants to obtain permits from other governmental agencies, both State and Federal. However, the Bureau of Land Management of the Department of the Interior has administrative jurisdiction over most of the Federally owned lands which will be traversed or otherwise affected by the pipeline and its related facilities.

Pending Applications

The following applications filed by the applicants are now before the Department: (1) application for 54-foot wide oil pipeline right-of-way from Prudhoe Bay on the North Slope of Alaska to Valdez, Alaska; (2) application for special land-use permits for additional widths of land contiguous to the pipeline right-of-way for temporary construction purposes; (3) application for rights-of-way for pumping stations; and (4) applications for rights-of-way for communications sites.

There is also presently before the Department an application by the State of Alaska for a right-of-way for a State highway from the Yukon River to Prudhoe Bay. The State has also submitted applications for gravel and other construction materials to construct the highway.

The State of Alaska, in cooperation with the applicants, has constructed a public highway from Livengood to the Yukon River which will be used by the applicants during construction and maintenance of the pipeline. This highway will be joined to the proposed State highway by a bridge across the Yukon River. The applicants will use the highway in connection with the construction and maintenance of the highway.

Up to the present time, the Department has authorized the applicants to use public lands for various field explorations (such as soils investigations and surveying), and for temporary communications sites, campsites, and temporary airstrips (located on existing roads or campsites) supportative of such explorations.

The Department of Agriculture has issued the applicants a permit for construction of terminal facilities at Valdez within the boundaries of the Chugach National Forest. The permit authorizes construction activities in three stages, only the first of which, involving surveying and clearing, has been completed. The State of Alaska has filed a selection pursuant to the community grant made by section 6(a) of the Alaska Statehood Act for the terminal area.

If the application for the pipeline right-of-way permit and other pending applications are granted, additional

authorizations will be necessary for additional construction camps, material sites, access roads, spoil disposal areas, intermediate pipe storage sites, and a gas pipeline to supply fuel to power several of the pump stations.

In addition, the applicants have filed applications with the Department of the Army for rights-of-way across military installations, and applications with the Corps of Engineers for permits for facilities at the Valdez terminal site. The applicants must also apply to the Corps of Engineers for permits for burial of the pipeline under navigable streams and for other operations involving navigable waters, and to the Coast Guard for permits for crossings of navigable streams by bridges.

Also before the Department are applications filed by Bud Brown Enterprises, Incorporated, for a pipeline right-of-way permit, a permit to construct an aerial tramway, a right-of-way permit for telephone, telegraph and power transmission lines, and a special land-use permit for 100-foot wide strips of land on both sides of the pipeline right-of-way. The Bud Brown proposals are unacceptable. The Final Environmental Impact Statement, Volume 5, pp. 226-7, 230 discusses the technical difficulties associated with the suspended pipeline system which this applicant proposes to use. A suspended pipeline system would be more vulnerable to earthquakes, landslides and floods than would be buried pipeline. The proposal is technically inferior to a buried pipeline with occasional above-ground construction in permafrost areas. In addition, the applicant, Bud Brown Enterprises, Inc., has not submitted, or given indication that it is likely to submit, all the documents required by the Departmental regulations. Nor has it demonstrated, or given indication that it is likely to demonstrate, that it is qualified and able to construct the oil pipeline for which it seeks a right-of-way. For each reason set forth in this paragraph, it is determined that all of said applications of Bud Brown Enterprises, Inc., should be rejected.

Legal Authorities

The following statutes and regulations authorize the Secretary of the Interior, in his discretion, to grant the applications for the proposals: right-of-way permit for oil pipeline, 30 U.S.C. sec. 185, 43 CFR, Parts 2800 and 2880; right-of-way permits for communications sites, 43 U.S.C. sec. 961, 43 CFR, Parts 2800 and 2860 special land-use permits, 43 CFR, Part 2920 and statutes cited therein; rights-of-way for public highways, 43 U.S.C. sec. 932, 43 CFR, Part 2800 and Subpart 2822; and mineral materials disposals, 30 U.S.C. secs. 601, 602, 43 CFR, Group 3600.

National Policies

The National Environmental Policy Act sets out policies and goals on environmental quality, among which is, "To declare a national policy which will encourage productive and enjoyable harmony between man and his environment. . . ." Section 101(b) of the Act requires that the means used to implement the Act are to be "consistent with other essential considerations of national policy. . . ." Thus, the national policies set forth in the Mining and Minerals Policy Act of 1970, 84 Stat. 1876, 30 U.S.C. 21a., must also be considered. Likewise, the national policy of the President must also be considered. The policy has been enunciated in the President's June 4, 1971, Message on Energy Policy, in which he stated that a sufficient supply of clean energy is essential if we are to sustain healthy economic growth and improve the quality of our national life. The President reemphasized that policy in his Environmental Message to Congress on February 8, 1972.

On February 18, 1971, the Director of the Office of Emergency Preparedness, commenting on the Draft Environmental Impact Statement for the Trans-Alaska pipeline, stated that "it is particularly important to stress the need for early availability of Alaskan oil to meet the petroleum needs of the West Coast (District V)."

The Economic Report of the President, which was transmitted to Congress in January, 1972, discusses the economic costs of pipeline development and places the decisional process on the question in its proper perspective. The Report, at pages 122-123, states:

> "The pending decision about issuing a right-of-way permit to the Trans-Alaska Pipeline illustrates the considerations involved in government allocation of environmental resources. . . .
>
> "Development of the 10-billion-barrel field and transportation of the oil to the West Coast would save the nation $15 billion of $17 billion during the expected 20-year life of the field. These costs must of course be weighted with other considerations mentioned above in arriving at an ultimate decision."

The Secretary of the Interior, therefore, must consider these policies, as well as other national policies, including those regarding economics and national security, together with the policies enunciated in the National Environmental Policy Act, in making a decision regarding the proposals.

National Environmental Policy Act Compliance

The procedural requirements of the National Environmental Policy Act have been met.

Section 102(2)(A) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall utilize a systematic, interdisciplinary approach which will insure the integrated use of the natural and social sciences and the environmental design arts in planning and in decisionmaking which may have an impact on man's environment. Since its inception, the Department's evaluation of the proposals has been based on the approach prescribed by the statute. The Final Environmental Impact Statement, Volume 6, pp. 1-7, sets out the various Federal agencies that contributed to the decisional process.

Section 102(2)(B) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government

shall identify and develop methods and procedures, in consultation with the Council on Environmental Quality, which will insure that presently unquantified environmental amenities and values may be given appropriate consideration in decisionmaking along with economic and technical considerations. The requirement deals with each agency's general procedures. The Department has complied with it by adopting general internal procedures for compliance with the Act. In addition, for the purposes of preparing the Final Environmental Impact Statement in the present case, specific procedures were devised to insure compliance. See Volume 6 of the Final Environmental Impact Statement.

Section 102(2)(C) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on—

(1) the environmental impact of the proposed action,

(2) any adverse environmental effects which cannot be avoided should the proposal be implemented,

(3) alternatives to the proposed action,

(4) the relationship between local short-term uses of man's environment and the maintenance and enhancement of long-term productivity, and

(5) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.

In its role as lead agency, the Department has prepared the requisite detailed statement with respect to the Alyeska proposal and the State proposal, and all Federal actions that will be required in connection therewith. That statement is the six volume study entitled "Final Environmental

Impact Statement—Proposed Trans-Alaska Pipeline," prepared by a special interagency task force for the Federal Task Force on Alaskan Oil Development. The Statement specifically and comprehensively treats each of the five subjects required to be in such a statement, as well as all matters required to be treated by the guidelines of the Council on Environmental Quality and the Department.

Section 102(2)(C) of the Act further directs that the responsible Federal official of an agency preparing an environmental statement required by the subsection of the act shall, prior to making the detailed statement, consult with and obtain the comments of any Federal agency which has jurisdiction by law or special expertise with respect to any environmental impact involved. Copies of such statement and the comments and views of the appropriate Federal, State and local agencies, which are authorized to develop and enforce environmental standards, are required to be made available to the President, the Council on Environmental Quality and to the public as provided by U.S.C. sec. 552 and shall accompany the proposal through the existing agency review processes.

Prior to promulgating the Draft Statement and prior to promulgating the Final Statement, the Secretary consulted with and obtained the comments of all Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved. A draft of the Final Statement was commented upon by, and consultations were had with, the Office of Emergency Preparedness, the Federal Power Commission, the Environmental Protection Agency, the National Park Service, and the Departments of Defense, Agriculture, Transportation, Commerce, and Health, Education and Welfare. Volume 6 of the Final Statement contains a full listing of participating Federal agencies.

Copies of the Final Statement, which includes the comments of the appropriate Federal, State and local agencies,

were made available to the Council on Environmental Quality and to the public on March 20, 1972. The Final Statement was submitted to the President on the same date.

The Department issued a press release on March 20, 1972, to inform the public that the statement was available and where it might be reviewed. A notice to the same effect was inserted in the *Federal Register*. Copies of the statement were made available for public inspection in various locations at Washington, D.C.; at Anchorage, Fairbanks and Juneau, Alaska; at Portland, Oregon; at Seattle, Washington; and at Los Angeles and San Francisco, California. In addition, the public was informed that copies of the statement could be obtained from the National Technical Information Service of the U.S. Department of Commerce. Accordingly, the requirements of 5 U.S.C. sec. 552 have been, and are being, fully complied with.

Because of the magnitude and importance of the project, special review procedures were established within the Department. This was necessary because of the involvement of almost every bureau of the Department and the involvement of a multitude of other agencies, both Federal and State. The Final Statement and comments and views of appropriate Federal, State and local agencies have accompanied the proposals through all stages of this review process.

Section 102(2)(D) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall study, develop, and describe appropriate alternatives to recommend courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources. The Department has studied, developed and described appropriate alternatives, including nonuse of the resources involved.

Section 102(2)(E) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall recognize the world-wide and long-range character of

environmental problems and, where consistent with the foreign policy of the United States, lend appropriate support to initiatives, resolutions, and programs designed to maximize international cooperation in anticipating and preventing a decline in the quality of mankind's world environment. In considering whether to grant the requested permits, the Department has taken into full account the international aspects of the matter. The Final Environmental Impact Statement and the accompanying documents consider the international environmental impacts and the advantages and disadvantages of a Canadian route. Discussions have been had with the Government of Canada on these matters.

Section 102(2)(F) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall make available to States, countries, municipalities, institutions, and individuals, advice and information useful in restoring, maintaining, and enhancing the quality of the environment. This provision is general and has no direct relationship to this decision on the proposals. However, the Department of the Interior has made available to the public all of the studies performed by it and other Federal agencies which relate to the proposed project.

Section 102(2)(G) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government shall initiate and utilize ecological information in the planning and development of resource-oriented projects. The Department has initiated and utilized ecological information throughout its involvement. Thus, the Department has prepared environmental Stipulations to govern the construction, operation, and termination of the proposals. Numerous ecological studies have been initiated and used by the Department and the Department has caused the applicant also to prepare and utilize ecological data throughout its planning and development of the project.

Section 102(2)(H) of the Act directs that, to the fullest extent possible, all agencies of the Federal Government

shall assist the Council on Environmental Quality. The Department has furnished materials relating to this matter to the Council and has kept the Council fully informed. All data required by law or regulation to be supplied to the Council or requested by the Council have been supplied.

Major Considerations Involved in the Determination of the Proposal

A. *United States Energy and Crude Oil Posture*

Crude oil demand in the United States most probably will be:

Year	Million Barrels per Day
1975	18
1980	22
1985	27

United States domestic crude oil production most probably will be:

Year	Million Barrels per Day
1975	10.0
1980	10.4
1985	10.4

Without regard to North Slope oil, a domestic crude oil deficit (the difference between demand and domestic supply) will exist and it most probably will be:

Year	Million Barrels per Day
1975	8.0
1980	11.6
1985	16.6

Western Hemisphere states (including Canada, Venezuela, Ecuador and Peru) will supply the United States all

the crude oil they are able, and such most probably will amount to:

Year	Million Barrels per Day
1975	3.62
1980	3.9
1985	4.57

Therefore, considering domestic crude production and probably Western Hemisphere imports, the United States will still have a crude oil deficit, and it most probably will amount to:

Year	Million Barrels per Day
1975	4.38
1980	7.7
1985	12.03

Whether such deficits can be reduced by increases in domestic natural or synthetic crude oil production, increased production and substitution of other sources of energy, or reduction in demand for energy or crude oil has been analyzed and thoroughly considered. It is concluded that it is unlikely that such deficits can be reduced significantly in any such manner. Therefore, for the foreseeable future, imports of oil from non-Western Hemisphere sources (primarily the Eastern Hemisphere) and North Slope crude oil are the only sources available to meet the deficit between demand and United States production (without North Slope oil) plus other Western Hemisphere availability.

The crude oil that would be available if the proposed trans-Alaska pipeline system were authorized at this time most probably would be 0.6 million barrels per day in 1975, 1.2 million barrels per day in 1980, and 1.6 to 2.0 million barrels per day in 1985.

B. *National Security Aspects*

Development of North Slope crude oil will result in the avoidance, to a significant degree, in increases in United States importation of Eastern Hemisphere oil. The avoidance of such increased dependency on Eastern Hemisphere imports is in the national interest, and development of North Slope oil will substantially lessen the deleterious consequences of such imports.

The Secretaries of State and Defense and the Director of the Office of Emergency Preparedness have found that there is a clear national security need for the development of North Slope oil, since such oil provides the potential to keep United States dependence on insecure foreign oil within reasonable bounds.

The Secretary of State has also concluded that the security needs of the United States, which require that Alaskan oil be brought to the lower 48 States by the most expeditious means, can best be served by quick approval of the line through Alaska.

The Director of the Office of Emergency Preparedness has also found that unless 500,000 barrels per day of oil can be provided from the North Slope, imports from Eastern Hemisphere sources will increase to about one-third of demand in Petroleum Administration District V (the West Coast) by 1975 and 46 percent by 1980. This, the Director found, is unacceptable in terms of national security.

The Secretary of Defense has also concluded that from an energy standpoint, the next ten to fifteen years will find the United States heavily and necessarily dependent on oil from sources which are politically insecure in peacetime and militarily insecure in event of hostilities; at best, during those years that dependence will incur considerable risk for the nation's economy, the well-being of the populace, and the national defense. The Secretary has also concluded that there is no district preference ascertainable

currently from a national security standpoint for any particular mode.

The General Counsel of the Treasury, on behalf of the Secretary of the Treasury, has concluded that unless the United States can proceed expeditiously with obtaining Alaskan oil to help satisfy a large part of our growing energy needs from domestic sources with as close to zero damage to the environment as is humanly possible, the whole structure of our domestic energy program will be in jeopardy; the resultant costs to our country, both in energy security and in our balance of payments, would be imprudently high and must be avoided.

The Secretary of Commerce has found that North Slope oil is an important and necessary energy reserve which is vital to the United States' continued economic security. The working paper transmitted by the Secretary concludes that sufficient foreign petroleum sources do exist to meet our future needs; however, prices, foreign political contingencies and national security considerations make heavy reliance on these sources undesirable. The paper also concludes that dependence on foreign supply involves the risk of major price increases and other detrimental occurrences; purchase of oil from foreign sources involves negotiation with countries where the political climate may be unstable. Reliance on foreign sources for substantial amounts of our most important energy source could place the United States in a vulnerable position if the interests of the countries involved conflict with those of the United States.

It is concluded that the importation of oil from Eastern Hemisphere, as well as other sources, has significant detrimental consequences for the United States: (1) It results in a resource cost to the nation substantially and significantly greater than that resulting from the domestic production of the same amount of oil. (2) Almost the entire delivery price of imported oil is an outflow for balance of payments purposes; such is a cost to the nation which, because of the present balance of payments posture, should be avoided. In this regard, the impact on the balance of payments of the development of North Slope oil would be positive; however, the size of the positive impact is uncertain.

Other factors also lead to the conclusion that North Slope oil should be developed and transported as rapidly as possible. The State of Alaska will receive substantial royalty and tax revenues from North Slope oil, estimated at $300 million per year at full pipeline capacity. Under the terms of the Alaska Native Claims Settlement Act, 16 percent of the State's royalty revenues will be paid to Alaskan Natives until the Natives have received a total of $500 million from such source. Any postponement of such revenues will have substantial adverse consequences for the State and the Alaskan Natives. American industry has invested approximately $900 million in North Slope oil and gas leases; failure to develop such reserves will result in the loss of such investment, and postponement of development will cause industry to incur costs inherent in the loss of use of such investment. Further, from a national economic efficiency standpoint, North Slope oil can be found, produced and delivered to the continental United States at substantially less cost than oil imported from the Eastern Hemisphere.

Based upon the findings and conclusions of the aforementioned Federal officials and upon all the material before the Department, it is concluded that it is in the national interest for the North Slope oil to be developed and transported to market, that such should be accomplished as rapidly as practicable, and that the importation of oil in lieu of such development is not in the national interest.

C. *Choice of Market for North Slope Oil*

The Director of the Office of Emergency Preparedness has found that there is a national security requirement that

"early availability of North Slope oil is crucial to the national security—primarily in the crude-deficit District V, where the availability of imported low sulfur crude oil is threatened by competition with Japanese requirements for petroleum, but also in Districts I-IV, where increased dependence on Eastern Hemisphere oil can be partially offset by diversion of Canadian oil from the West Coast." As noted above, he has also found that without North Slope oil, Petroleum Administration District V will be dependent on Eastern Hemisphere imports through at least 1980 to a degree that is unacceptable in terms of national security.

The Gulf Coast Region (Petroleum Administration District III) is in the most secure position for domestic oil supply by reason of its extensive geologic reserves. The Eastern Seaboard Region (Petroleum Administration District I) is in the least secure position because it lacks indigenous reserves. The Midwestern States Region (Petroleum Administration District II) derives its current supply by secure overland routes from its own indigenous reserves, augmented by secure overland supplies from District III and Canada. The Canadian pipeline import is offset by an essentially equivalent supply delivered by tanker to Portland, Maine, and thence by pipeline to Montreal. The Rocky Mountain States Region (Petroleum Administration District IV) has an indigenous supply but a relatively low population density. In addition, it has vast coal reserves. The Pacific Coast States Region (Petroleum Administration District V) has an indigenous supply in southern California, augmented principally by tanker imports, in part from foreign sources and in part by United States tankers from Cook Inlet, Alaska. The West Coast deficit, exclusive of Canadian and Alaskan sources, is projected to be more than 1,000,000 barrels per day by 1975, approximately 2,000,000 barrels per day in 1980, and to increase progressively in subsequent years as demand increases. Delivery of North Slope oil to the West Coast performed in United States tankers would displace foreign oil and decrease our reliance on foreign tankers to West Coast ports. This will strengthen the U.S. maritime industry. Delivery of North Slope oil to District V will also provide more flexibility in the total United States oil delivery system.

Based on the foregoing, it is concluded that the District V market is the preferable primary market for North Slope oil.

D. *The Proposal for the Trans-Alaska Pipeline*

1. *Feasibility*

The proposal for the trans-Alaska pipeline is set forth in the Project Description submitted to the Department by the Alyeska Pipeline Service Company and thereafter supplemented. Based on all the information before the Department, it is concluded that the proposal is technically feasible and that the pipeline system and all its components can be built by the applicants to conform to the Project Description and to meet all requirements imposed by law and those that would be imposed by the Department Stipulations. Certain components of, or devices to be used in connection with, the proposed system have not yet been developed or designed, and whether certain proposed methods of construction will meet certain local conditions has not yet been proven. Development and design of such components and devices and tests proving the efficacy of such construction methods, or satisfactory substitutes therefor, are within the capability of the present state of technology. The lack of such developments, designs and tests is not significant for purposes of making a determination with respect to the proposal, and there is presently before the Department sufficient information in this regard upon which a rational and informed decision can be made.

2. *Timing and Capacity*

From the date rights-of-way for the proposed trans-Alaska pipeline are granted, the line can be operating at a

capacity of 600,000 barrels per day throughput within three years, at a capacity of 1,200,000 barrels per day within six years, and at a capacity of at least 1,600,000 barrels per day within ten years.

3. *Economic and Social Consequences*

The impact on the State of Alaska of development of North Slope oil resources and construction of a trans-Alaska pipeline system for transportation of that oil to market will be mixed. Short-run increases in employment will be beneficial; reduction in employment at the end of construction, and a variety of dislocations, will tend to offset those benefits to some degree. Long-run benefits will result largely from the flow of royalty and tax revenues to the State; the size and pattern of those benefits will be determined by future State action.

Trans-Alaska pipeline construction: (1) will cause a sharp rise in the level of civilian employment and State personal income in Alaska, followed after three years by a decline, strongly concentrated in specific sectors and regions; (2) probably will not reduce unemployment in Alaska; (3) will not, in a major way, reduce the existing barriers to Native employment; and (4) will probably increase prices and cost of living in Alaska. After the period of construction of the trans-Alaska pipeline, the Alaskan economy may experience a significant downward readjustment.

The State of Alaska will receive very substantial revenues from the development of North Slope oil. The long-run impacts of development of North Slope oil on the State of Alaska are dependent upon the policies and actions of the State and its spending decisions with respect to the State revenue.

The Alyeska proposal will use American-built ships for its marine segment to United States ports. Construction of

the 33 new tankers required in the United States shipyards will generate substantial employment and income.

The threat of oil pollution to the Northern Pacific commercial marine fisheries that might be affected by either infrequent large oil spills or chronic low-level pollution is discussed in Volume 4 of the Final Environmental Impact Statement. Such threats, the probabilities and extent of damage resulting therefrom, and the consequences of such damage have been considered.

4. *Environmental Consequences*

Construction, operation, maintenance and the ultimate termination of the proposed trans-Alaska pipeline and construction and use of the proposed State highway will have substantial environmental consequences. Many are certain to occur and others are threatened. Among those certain to occur are: (1) terrain disruption and utilization and some erosion over the pipeline route, at the Valdez terminal and with respect to the State highway in an additional degree from Prudhoe Bay to the Yukon River; (2) commitment of a substantial amount of construction materials; (3) effects on water quality, both surface and groundwater, and air quality; (4) effects on wildlife and fisheries, and their habitat, in varying degrees, both along the route and in Prince William Sound; (5) effects on recreational and aesthetic values; (6) effects on communities and on the Alaskan Natives; (7) diminution of wilderness characteristics along the route and beyond; and (8) effects on destination port waters.

In addition, in connection with operation of the line, there are threatened environmental consequences which might result in oil spills of either large or small size. These include risks to the pipeline because of seismic events, permafrost degradation, slope failure, flooding and seismic risk to the terminal. There are also risks of spills resulting from tanker casualties and oil transfers.

All of the environmental consequences, both certain and threatened, have been thoroughly analyzed and considered. Although some environmental studies are continuing, there is presently before the Department adequate information on which to base a rational and informed determination with respect to the proposals.

Another relevant consideration is the set of environmental and technical Stipulations developed by the Department during its review process. Such Stipulations can and will be rigorously enforced by the Department, and they provide the Department with adequate enforcement procedures. Application and proper enforcement of them will not avoid the environmental consequences of the proposal, but many such consequences can and will be minimized as a result of them. This is particularly true of consequences that would result from the peculiar specifics of the Alyeska proposal. The instances where this would occur are discussed in the Environmental Impact Statement.

Authorization of the trans-Alaska pipeline will result in certain ancillary developments. Primary among these will be development of the Prudhoe Bay oil field, a development that has already begun and that will be the inevitable result of any method of transporting North Slope oil. Similarly, the natural gas present in the Prudhoe Bay field will have to be developed and transported, most probably by pipeline through Canada. Although it is very likely that a second oil line will be required to transport North Slope oil, it is not certain to occur; if it should, it is entirely speculative as to where such a line would be sought to be constructed. If such a line were to be built, it is possible that it would be constructed through Canada. Authorization of the trans-Alaska pipeline will also require the construction of a highway by the State of Alaska from the Yukon River to Prudhoe Bay. The environmental consequences of all ancillary developments, including the above, have been sufficiently analyzed and thoroughly considered.

Upon consideration of the foregoing and all the material before the Department, and weighing the benefits that would result from the Alyeska proposal against the detriments that would be associated therewith, it is concluded that the Alyeska proposal is acceptable.

E. *Alternative Methods of Transporting North Slope Oil*

None of the suggested alternative modes, including railroad, highway, marine tanker systems, and other systems (such as modified pipelines, suspended or elevated pipelines, pipelines combined with other modes, submarine pipelines, airlift systems, and conversion to other energy forms) are viable alternatives to pipeline or pipeline-plus-tanker transportation systems as alternative modes of transporting North Slope oil and gas, due to feasibility and/or environmental considerations.

1. *Alternative surface modes*

Railroad systems from the North Slope (1) to a southern Alaska ice-free port with marine tanker transportation on to market, or (2) via Canada to a northern Montana connection with existing United States rail systems are not viable alternatives to a pipeline system. Although studies with respect to such systems are continuing, it is concluded they are economically infeasible, and lack of precedent for such large volume operations in the Arctic environment makes technical feasibility uncertain. In comparison with pipelines, some lowered environmental threats would be offset by increased terrain disruption and construction material requirements.

The operation of a truck fleet large enough to carry two million barrels of oil per day from the North Slope to a southern Alaska port for transshipment to market or to the north-central United States via a trans-Alaska-Canada route has not been suggested seriously and is not feasible.

2. *Alternative marine transport systems*

Ice-breaking tanker systems from the North Slope to market ports via both the Bering Strait and Northwest Passage routes for oil transportation are not currently feasible and will not be so in the foreseeable future. These systems would entail uncertainties in regard to submarine permafrost conditions, offshore dredging and other terminal construction and maintenance problems, safe navigation, and sea ice conditions. Any Arctic Ocean tanker system would probably incur relatively high associated environmental costs.

Submarine transport systems from the North Slope to market ports are not currently feasible and will not be so in the foreseeable future.

No other oil transport modes are currently feasible or will be so in the future.

3. *Alternative trans-Alaska pipeline routes*

Neither overland nor offshore pipeline systems from the Prudhoe Bay to a Bering Sea port connecting with a marine transport system to market ports are technically feasible at present and are not likely to be so for many years. An overland oil and gas pipeline corridor to Bering Sea port sites is feasible; however, unanswered technical problems associated with offshore tanker terminal construction and operation make the alternative of questionable feasibility. An offshore pipeline from Prudhoe Bay to terminal ports on the Bering Sea is not now, and could not be for some time, feasible because of unsolved technical problems associated with sea bottom permafrost, ice scouring, and problems associated with offshore tanker terminal construction and operation.

The route to Haines-Port Chilkoot is of appreciably greater length, has no significant environmental advantages, and is therefore not a viable alternative.

The route terminating at Redoubt Bay in Cook Inlet would be preferable to any other feasible trans-Alaska

route other than the route to Valdez from an environmental point of view.

Of the possible trans-Alaska routes to ice-free ports, that to the Redoubt Bay area of Cook Inlet, when compared with the route to Valdez, would perhaps incur lower environmental costs in some respects and higher environmental costs in other respects. It is concluded that, on balance, there is no overall significant environmental advantage to the Redoubt Bay alternative. Further, taking into consideration the need for rapid development of North Slope oil, this alternative is less preferable than the Valdez route.

4. *Alternative Canada Pipeline Routes to Edmonton, Canada*

Several proposed pipeline routes from Prudhoe Bay to Edmonton, Canada, have been analyzed and thoroughly considered. Although the level of information that is available concerning these routes is lower than that available for the Alyeska proposal, there is sufficient information concerning the trans-Canada routes before the Department for a decision to be made concerning the proposal and its alternatives.

Overland pipelines through Alaska and Canada and overland pipelines through Alaska to a southern ice-free port together with a tanker transportation system are presently the only feasible and environmentally acceptable means of transporting the North Slope oil to market. Overland pipelines through Alaska and Canada are the only feasible and environmentally acceptable means of transporting the North Slope gas to market.

The pipeline corridor from Prudhoe Bay inland, skirting the south of the Arctic National Wildlife Range, to Fort McPherson and up the Mackenzie Valley to Edmonton is feasible and would entail the least environmental harm of the alternative trans-Alaska-Canada corridors. Alternate corridors along the Arctic Ocean coast and inland, skirting

the Arctic National Wildlife Range, to Fort McPherson and up the Mackenzie Valley to Edmonton are feasible for oil and gas pipelines. A corridor south along the proposed oil pipeline route to Big Delta, Alaska, and from there to Edmonton is also feasible. Pipelines in the alternative coastal and inland corridors leading to the Mackenzie Valley corridor would cause about the same environmental impact, but the coastal corridor would incur less overall impact. The coastal corridor would cross the Arctic National Wildlife Range, however, and the inland corridor is therefore preferable. A pipeline in the Big Delta corridor would cause more impact than a pipeline in the Mackenzie Valley corridor. Although all trans-Canada routes have been analyzed and considered, only the inland Mackenzie Valley corridor to Edmonton route is discussed below and it is referred to as the trans-Alaska-Canada route.

As regards the terrestrial abiotic environment, the trans-Alaska route would have significantly less impact with respect to construction material requirements and their effects; changes in the quality of both surface and ground water; changes in air quality; physical space commitment; and direct and indirect terrain disruption.

As regards the terrestrial biotic environment, the trans-Alaska route would have significantly less impact with respect to vegetation and habitat disruption and would have an approximately equivalent impact with respect to wildlife; the trans-Alaska-Canada route might have significantly less impact with respect to freshwater fisheries, depending primarily on the number of crossings of the MacKenzie River that would be involved.

As regards socioeconomic impacts, the trans-Alaska route would have significantly less impact with respect to disruption of wilderness values, and the trans-Alaska-Canada route would have significantly less impact with respect to effects on recreation, aesthetics, communities and Native culture and subsistance.

The trans-Alaska-Canada route would threaten impact on the marine environment and its associated wildlife and fisheries only through proximity of the origin stations to the Arctic Ocean and through crossing of watersheds that drain directly into the ocean. The trans-Alaska route would have the same impact in addition to the unavoidable impacts of the marine terminal facilities at the port (primarily the impact of discharge of oil from ballast treatment facility and possible discharge at sea of oily ballast and tank cleaning residues) and the impacts imposed by the threat of oil loss in transfer operation at all ports and through tanker casualties.

As regards risks that may threaten terrestrial environmental damage, the trans-Alaska route poses a risk approximately equivalent to that of the trans-Alaska-Canada route with respect to the nature of permafrost degradation, floods, and slope failure, and the trans-Alaska-Canada route poses a lesser risk with respect to seismicity.

Upon analysis, certain conclusions with respect to the environmental consequences, both certain and threatened, of the trans-Alaska route and the trans-Alaska-Canada route result: (1) each would involve significant environmental consequences; (2) neither route is superior in all respects; (3) each route has significant aspects in which it is superior to the other; (4) neither route is clearly preferable; and (5) the environmental consequences of each route, when weighed against the advantages to be derived from the construction of a pipeline, are acceptable.

F. *Further Deferral of Action*

Study by the Department of the problems associated with transportation of North Slope oil began in 1969. In June, 1969, these applicants first filed their application for a right-of-way. Since that time, the Department has been studying and analyzing the proposal, and all aspects thereof, including alternatives thereto, and it has reached no

decision with respect to the proposal or the applications until this time.

The primary advantage of further deferral of a decision with respect to the Alyeska proposal would be to allow the completion of studies in progress, the development of additional information (primarily concerning the trans-Alaska-Canada route), and further development of certain technical aspects of the proposed pipeline system.

There is now available to the Department sufficient data, studies and information with respect to all aspects of the Alyeska and State proposals and their consequences and alternatives, so that an informed and rational judgment with respect to them can be made. Any further deferral of a decision would delay development of the North Slope oil with the attendant adverse consequences which have been discussed above, and the limited advantages of deferral are not significant enough to warrant that delay. Accordingly, further deferral is not appropriate.

G. *Summary and Decision*

After maximum practicable domestic onshore and offshore production and the importation of the maximum amount of crude oil other Western Hemisphere states are able to supply are taken into consideration, the United States, by 1975, will have a deficit in its crude oil demand/supply that will become greater each succeeding year. Relief for that deficit will be obtainable from only two sources: non-Western Hemisphere imports and, in part, North Slope oil. Reliance on Eastern Hemisphere imports to the exclusion of development of a national resource, the North Slope oil, is not in the national interest. To so rely would make the United States unduly dependent on insecure sources of oil, have adverse balance of payments consequences, and result in substantial resource costs to the nation: effects that North Slope oil development would avoid. In addition, such development would provide substantial revenues to the State of Alaska and Alaskan Natives. It is therefore in the national interest that North Slope oil be developed and that such development occur as soon as practicable.

Both the proposed Trans-Alaska pipeline [1] and the trans-Alaska-Canada route [2] which have been discussed would be technically and economically feasible (in fact, they are the two principal alternatives that have such feasibility). Each, in varying degrees, would result in significant adverse environmental consequences, both certain and potential. The environmental consequences that would result from the choice of either route, however, are considered to be acceptable when the advantages resulting from the development of North Slope oil are considered.

Neither the trans-Alaska route nor the trans-Alaska-Canada route is clearly preferable with respect to its environmental consequences.

Construction of the oil pipeline for transporting North Slope oil along the trans-Alaska-Canada route would allow both it and the pipeline for transporting North Slope gas to be constructed in a common corridor. This would result in economies of construction and lesser environmental impacts than if separate corridors were used for each line. The advantages of such a common corridor have been thoroughly considered, and it is concluded that they are outweighed by both the advantages to the national interest resulting from the construction of a trans-Alaska line and the disadvantages to the national interest associated with the trans-Alaska-Canada route.

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[1] The route referred to as trans-Alaska route is the Prudhoe Bay to Port Valdez route. As noted, *supra*, such route would be preferable to the other viable route from Prudhoe Bay to southern Alaska, that running to Redoubt Bay on Cook Inlet.

[2] The route referred to as the trans-Alaska-Canada route herein is the Prudhoe Bay to Edmonton (inland) route. As noted, *supra*, such route is preferable to any other route through Canada.

There are other essential considerations, including several of national policy, which must be taken into account along with the environmental considerations.

Although the Canadian Government has expressed great interest in a trans-Alaska-Canada pipeline and has said it could begin to process an application towards the end of this year, the United States has had no firm assurances that the Canadian Government, after review of an application, will authorize construction of a trans-Alaska-Canada oil pipeline. Further, no organization with access to the financial and technical resources necessary to construct such a line has indicated any interest in building such an oil pipeline. Consequently, whether Canadian authorization and subsequent construction of a trans-Alaska-Canada oil pipeline would result if the pending applications are rejected must be considered to be speculative. On the other hand, it is certain that a trans-Alaska line will be built if the applications are approved.

The Canadian Government has said that, even if it should be willing to authorize a trans-Alaska-Canada pipeline at some future time, it would require Canadian control over a substantial amount of the capacity of the line for the transport of Canadian oil. It is clear, therefore, that a substantial part of the throughput capacity of trans-Alaska-Canada line would not be available to transport North Slope oil.

On the other hand, all the capacity of the trans-Alaska line would be available for North Slope oil and all of that capacity would be available for delivery to the United States. With respect to all factors involved in the present situation, it is in the national interest that the United States have control over and access to the entire capacity of the oil pipeline for transporting North Slope oil.

Construction of a trans-Alaska-Canada line could begin at the earliest 3 to 5 years later than could construction of the proposed trans-Alaska line, as confirmed by officials of

the Canadian Government. This is because of the following problems in concluding the necessary arrangements: delay in arranging financing; delay in working out the necessary agreements among the United States, Canada and the oil pipeline companies; and delay pending completion of environmental, engineering and construction studies for the trans-Alaska-Canada route. Construction of the trans-Alaska-Canada line would take more time than would the proposed trans-Alaska line. The delay that would result from choosing the trans-Canada-Alaska route over the proposed trans-Alaska pipeline is significant and would result in several consequences adverse to the national interest of the United States: the nation would be dependent on insecure foreign sources of oil during the period of delay to an extent that is not in the national interest; the nation would forfeit a substantial resource cost saving for each year of such delay; and the State of Alaska and the Alaskan Natives would have the realization of substantial revenues postponed at a time when they are needed.

Without the construction of another pipeline in addition to the existing Transmountain Pipeline from Edmonton to Seattle, the trans-Alaska-Canada line would not be able to deliver significant amounts of oil to the West Coast, while the proposed trans-Alaska line would deliver sufficient oil to relieve the dependency of Petroleum Administration District V on insecure foreign oil.

If the pending applications were rejected and thereafter a pipeline were constructed along the trans-Alaska-Canada route, the following consequences would result: the United States would be more dependent on Canadian oil, a foreign oil source, than it would with the proposed trans-Alaska line, with consequential unfavorable balance of payments effects and added resource costs to the nation; and the ancillary benefits to the United States merchant marine industry that would result from the proposed trans-Alaska pipeline would be lost.

Having considered all the foregoing and all material before the Department, it is further concluded that: (1) the national interest requires the rapid development of North Slope oil; (2) it is in the national interest to have a pipeline for the transport of North Slope oil under the total jurisdiction, and for the exclusive use, of the United States; (3) based on an evaluation of all factors, including national policy and the impact on the quality of the human environment that is both certain and threatened, the Alyeska proposal is, from the standpoint of the overall national interest, acceptable and preferable to any other alternative that has been suggested for transporting North Slope oil; (4) rejection of the Alyeska proposal or any further delay in making a determination with respect to that proposal is not in the national interest; (5) approval of the proposal and granting the permits necessary therefor is in the national interest and is consistent with all the policies set forth by Congress, including those contained in the National Environmental Policy Act of 1969; and (6) approval of the State proposal is in the national interest as well as the interest of the State of Alaska and is consistent with all the policies set forth by Congress, including those contained in the National Environmental Policy Act of 1969.

Therefore, both the Alyeska and State proposals should be allowed to go forward. The Bureau of Land Management will be instructed to issue the requisite permits as soon as it is legally permissible to do so.

May 11, 1972

/s/ Rogers C. B. Morton
Secretary of the Interior

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

THE WILDERNESS SOCIETY, ET AL., *Plaintiffs*,

v.

ROGERS C. B. MORTON, ET AL., *Defendants*.
Civil Action No. 928-70

MOTION OF PLAINTIFFS FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Rules 54(b) and 56 of the Federal Rules of Civil Procedure, plaintiffs, The Wilderness Society, Friends of the Earth, and Environmental Defense Fund, Inc., hereby move the Court for Partial Summary Judgment in their favor on the Mineral Leasing Act issues as set forth in their complaint.

The grounds for the plaintiffs' motion are that the Mineral Leasing Act issues present threshold questions resting on operative facts that are different from and independent of the operative facts of plaintiffs' claims under the National Environmental Policy Act ("NEPA"); the NEPA issues need be adjudicated only if the permits contemplated by the Secretary are not prohibited by the Mineral Leasing Act; and if said permits are prohibited by the Mineral Leasing Act, it would be a waste of judicial time and effort for this court to adjudicate the far more complicated NEPA issues which would, in that event, be reduced to hypothetical questions. Since there is no genuine issue as to any material fact insofar as the Mineral Leasing Act is concerned and plaintiffs are entitled to a judgment as a matter of law, there is no just reason for delay and every reason for a final adjudication of these issues.

The motion rests on the pleadings herein and on plaintiffs' Memorandum of Points and Authorities and Statement of Material Facts as to Which Plaintiffs Contend

Contend There is No Genuine Issue, together with the documents attached thereto.

Respectfully submitted,

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May 12, 1972

Civil Nos. 928-70 and 861-71

(CAPTION OMITTED)

DEFENDANT'S MOTION TO PLACE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT IN ABEYANCE

In response to plaintiffs' motion for partial summary judgment, defendant Alyeska Pipeline Service Company moves the Court to relieve all parties from any necessity

of responding thereto, to withhold any action and consideration of plaintiffs' motion until such time as the pretrial conferences and related procedures requested in an accompanying motion by defendant this date have been completed, and the entire case is ready for submission to the Court.

The reasons for this motion are set forth in the attached memorandum.

A proposed order setting forth the substance of the motion is attached hereto for the Court's consideration.

Respectfully submitted,

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May 17, 1972.

(CAPTION OMITTED)

MEMORANDUM OF ALYESKA PIPELINE SERVICE COMPANY IN SUPPORT OF DEFENDANT'S MOTION TO PLACE PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT IN ABEYANCE

A. *Status of the Cases*

On March 26, 1970, the Wilderness Society and other plaintiffs instituted this action to enjoin the Secretary of the Interior from issuing rights-of-way and permits necessary for the construction of the proposed trans-Alaska pipeline system. On April 23, 1970, this Court issued a preliminary injunction preventing construction of a "haul road" over public lands of the United States from Prudhoe Bay to the Yukon River and the use of gravel from public lands of the United States for such a road. The Court also enjoined the issuance of any permit for construction of any section or component of the trans-Alaska pipeline system unless plaintiffs were given fourteen days' notice and an opportunity to challenge the legality of such permit.

In September 1971 Alyeska Pipeline Service Company (hereafter "Alyeska") and the State of Alaska were permitted to intervene. In April 1971 the Cordova District Fisheries Union instituted another action against the Secretary to enjoin the issuance of rights-of-way and permits and for declaratory judgment determining that a revocable permit issued by the United States Forest Service for the use of land within Chugach National Forest is invalid. Both cases have now been consolidated. Answers filed by the defendant Secretaries and the intervening defendants Alyeska and the State of Alaska contest plaintiffs' allegations, raise jurisdictional and other questions relating to plaintiffs' ability to maintain this action, and raise affirmative defenses.

In August 1971 plaintiffs Cordova District Fisheries Union moved for partial summary judgment on the question of the unlawfulness of the special use permit issued

October 1, 1969 by the Forest Service to certain of Alyeska's owner companies for the use of certain lands in the Chugach National Forest. Prior to the filing of any memoranda by the defendants opposing that motion of the plaintiffs on its merits, this Court heard a motion by the Secretary of the Interior to place plaintiff's motion for partial summary judgment in abeyance. Defendant's motion at that time urged the plaintiff's motion be held in abeyance until the Secretary of the Interior made a decision with respect to issuance of the permits and the entire case was ready for submission to the Court. On October 19, 1971, the Court granted defendant's motion to hold plaintiff's motion for partial summary judgment in abeyance and deferred plaintiff's motion until further order. On that occasion, the Court noted:

> I think we have to dispose of all of [the issues], and probably dispose of them together. . . . So I am not going to act on any partial summary judgment at this time. . . . You come popping in if you feel you are in imminent danger of some bad results and we will hear you. Otherwise, we will let it rest in abeyance. (Transcript, Oct. 15, 1971, at 6, 8.)

On April 20, 1972, the Secretary of the Interior issued a multi-volume Final Environmental Impact Statement pertaining to the subject matter of this litigation. On May 11, 1972, the Secretary served notice of his intention to issue permits to Alyeska and the State of Alaska for the pipeline and highway respectively. On the following day, May 12, 1972, other plaintiffs, the Wilderness Society, *et al.*, filed a second motion for partial summary judgment.

Alyeska has today filed a motion for scheduling of pretrial conferences and related procedures. At the same time, Alyeska is also filing the present motion requesting this Court to hold plaintiffs' motion for partial summary judgment in abeyance until such time as the pretrial conferences and related procedures have been completed, and the entire case is ready for submission to the Court. As set

forth below, Alyeska believes that its motion to hold plaintiffs' motion for partial summary judgment in abeyance should be granted since the present adjudication of plaintiffs' motion would disrupt the orderly consideration of this case and would likely to result in additional delay to its conclusion.

In addition, Alyeska believes that its present motion and its motion for scheduling of pretrial conferences and procedures should be given priority of consideration before plaintiffs' motion for partial summary judgment. In any event, Alyeska's time to answer the lengthy and complex contentions of plaintiffs' motion should be extended until a reasonable time subsequent to the resolution of defendant's present motion.

B. *A Hearing at the Present Time on Plaintiffs' Motion for Partial Summary Judgment Will Neither Serve the Purpose of Rule 56 Nor Contribute to the Efficient Handling of This Litigation.*

Plaintiffs' present motion is the second such filed in this case. With the recent addition of still more parties, more such motions may be forthcoming. Plaintiffs' motion presents only a few of several major issues pending before the Court. How all these issues ought to be brought to hearing and resolved by the Court is the subject of defendant's motion for scheduling of pretrial conferences and procedures filed today. Alyeska views its motion for scheduling of pretrial conferences and related procedures as the best method of resolving the manner and time of the Court's hearing of the issues in this case. Hearing of plaintiffs' motion now and separately from the other issues in this case will neither serve the purposes of Rule 56, nor contribute to the efficient handling of this litigation.

Whether to proceed with a hearing on a motion for summary judgment or partial summary judgment is a matter committed to the sound discretion of the Court. *Williams* v. *Howard Johnson's, Inc.*, 323 F.2d 102, 104 (4th Cir. 1963); *Clark* v. *Hancock*, 45 F.R.D. 512, 514 (S.D. Georgia 1968). The paragraphs below discuss the considerations which suggest that this Court should grant the motion to hold in abeyance plaintiffs' motion for partial summary judgment.

1. *Consideration of a partial summary judgment motion on its merits at the present time will not contribute to the efficient resolution of this litigation.*

Rule 56 of the Federal Rules of Civil Procedure providing for summary judgments is to be read in *pari materia* with Rule 1 of the Federal Rules which admonishes that the rules "shall be construed to secure the just, speedy, and inexpensive determination of every action." Its principal purpose is "to eliminate needless trials where there are no issues of material fact." *Chambers* v. *United States*, 357 F.2d 224 (8th Cir. 1966); *Rogers* v. *Peabody Coal Co.*, 342 F.2d 749 (6th Cir. 1965); *Clark* v. *Hancock, supra*. As in the case of the other Federal Rules, summary judgment procedures "should be applied in a common sense manner to the realities of the litigation at hand." *Wiliams* v. *Howard Johnsons, Inc., supra* at 105. In short, summary proceedings are only a means to an end and Rule 56 is to be applied, as the Court noted in *Gray Tool Co.* v. *Humble Oil & Refining Co.*, 186 F.2d 365 (5th Cir. 1951), with wise discernment:

> [T]his is another of those all too numerous instances of the misuse of the summary judgment procedure to cut a trial short; . . . here as too often before, it has served only to prove that short cutting of trials is not an end in itself but a means to an end, and that in the conduct of trials, as in other endeavors, it is quite often true that the longest way around is the shortest way through.

Here, the principal purpose of Rule 56 will not be served by going forward with a hearing on plaintiff's motion for partial summary judgment. The numerous allegations con-

tained in the complaints of the several plaintiffs, all of which are raised for the purpose of preventing construction of the trans-Alaska pipeline, will clearly necessitate the scheduling by this Court of a hearing on the merits at some point in the near future. A hearing on plaintiff's present motion for partial summary judgment will not obviate the requirement for further judicial proceedings.

Plaintiffs' motion for partial summary judgment under Rule 56 should not be viewed in isolation. The purposes of Rule 56 should be considered in light of the purposes of Rule 16.

> It seems quite apparent that the draftsmen [of Rule 56] were attempting, by providing for partial summary judgment, merely to speed up the trial by eliminating what were not deemed proper issues. The rule is very similar to Rule 16 concerning pretrial procedure for formulation of issues by the court in conference with the parties. In fact, the drafters expressly indicated that the same purpose lay behind both. (*Leonard* v. *Socony-Vacuum Oil Co.*, 130 F.2d 535, 536 (7th Cir. 1942).)

In the Rule 16 motion and memorandum filed by Alyeska today, Alyeska proposes that the Court consider all the pending issues in this case at two pretrial conferences, and discusses the need for the Court to determine the proper scope of judicial review in advance of hearing of any issues, the need to identify both legal issues and desired witnesses and to provide for the completion of discovery proceedings, and the need to establish a timetable for subsequent phases of the litigation. In large part, these matters are as applicable to the phase of the case dealt with in plaintiffs' present motion as they are to other aspects of the lawsuit. In essence, defendant's motion for scheduling and plaintiffs' present motion ask for the same thing —resolution of what issues will be heard by the Court and an expeditious conclusion of the litigation. The Rule 16 procedure Alyeska suggests will provide a more orderly

and comprehensive resolution of the matters before the Court.

Alyeska, in its motion for pretrial procedures, has provided assurances that it will not move for summary judgment on any issues presently involved in this case without formal consultation and agreement with counsel for plaintiffs. In the same motion Alyeska indicated its willingness to file with this Court a formal undertaking or representation that it will take no action under any permit relating to construction until the controversy is finally adjudicated on the merits by this Court. By these representations, Alyeska believes that preliminary proceedings may be limited, subsequent phases of the litigation simplified and final disposition expedited.

2. *The issues raised with respect to the permits involve factual matters which apply to the entire case and are not appropriate for summary disposition.*

The granting of plaintiffs' motion for partial summary judgment would in fact complicate and delay the litigation under the guise of expediting it. Plaintiffs' motion attacks a series of questions relating to the various rights-of-way and permits requested by Alyeska. By their motion plaintiffs seek to preclude the issuance to Alyeska of a special land use permit (SLUP) for the construction zone adjacent to the pipeline right-of-way; to preclude SLUP's and other permits to Alyeska for the construction of pump stations, communications sites, remote control block valve sites, airfields, construction camps, materials sites, access roads and the like; and to preclude to the State of Alaska the issuance of highway construction permits, airport permits and free use permits for gravel. The questions thus raised touch every phase of the case.

Both the permit issues and those relating to the National Environmental Policy Act (NEPA), 42 U.S.C. § 4331 *et seq.*, are inseparably associated with the technical details

of how the trans-Alaska pipeline system will be built. Alyeska is confident that when the plaintiffs' contentions are examined by this Court with a full factual understanding of the project, the scope of the Secretary's power to issue the requested permits and the past policies and practice of the Department of the Interior, the Court will reject those contentions. The necessity to consider such closely-related factual matters eliminates substantial savings of judicial or counsel time and effort by separate consideration of plaintiffs' present motion. It would simply mean that these issues would have to be considered again at a separate time. It would also mean that the entire fact picture would ultimately be considered in piecemeal form.

It will be necessary for the Court to weigh the validity of various interpretations of the right-of-way and permit laws and regulations giving full consideration to the reasons and basis for Interior Department and pipeline industry practice. These matters, too, involve factual understandings and factual nuances that affect the interpretation of the law and may well have to be set forth by affidavit or other evidence.

Furthermore, these issues are matters of great public importance and involve very substantial costs. The Court's judgment on such matters should be fully informed and the matters fully explored, rather than disposed of in summary proceedings. The approaches adopted by the courts in similar circumstances bear consideration here. *See, e.g., Arenas* v. *United States*, 322 U.S. 419, 431-432, 434 (1944); *Eccles* v. *Peoples Bank of Lakewood Village, Cal.*, 333 U.S. 426 (1948); *Edward B. Marks Music Corp.* v. *Foullon*, 10 F.R.Serv. 56c41, Case 7 (S.D.N.Y. 1947). *See* discussion of these cases in Moore's FEDERAL PRACTICE, ¶ 56.16 and ¶ 56.17 [1] (2d ed. 1971).

3. *If the Mineral Leasing Act issues are reached now, consideration of the NEPA issues will still be required.*

Efforts to build the trans-Alaska pipeline will not be terminated by an adverse ruling on the Mineral Leasing Act issues. In such an event, Alyeska, believing that important legal questions are involved, would seek appellate review, or take other appropriate actions to eliminate any constraints imposed by such a ruling. In these circumstances, the NEPA issues would clearly not be moot, and Alyeska would ask this Court to consider them as fully as if no ruling on the Mineral Leasing Act issues had been made. Not to do so would invite an unthinkable piecemeal approach to a litigation where over a billion dollars are at stake in lease, exploration, development, engineering, research, and design costs. The anticipated costs of a year's delay well exceed $150,000,000 in terms of increased pipeline costs alone, and the imputed interest cost on invested capital merely for the seven companies which own Alyeska (disregarding the many other companies who have no feasible transportation mode for oil discoveries on the North Slope) runs to tens of millions of dollars per year. The other defendants can speak for themselves, but it is clear that similarly impressive interests are involved on the part of the United States in terms of energy policy, and on the part of the State of Alaska in terms of the potentially critical impact of delay on the state's fiscal outlook. A "bits-and-pieces" litigation would wholly frustrate Rule 1's exhortation that the Rules be construed to secure the "just, speedy, and inexpensive determination of every action." The result, rather than saving court time, would merely be the ultimate reinstatement of some form of this litigation at some indefinable future time, with Lord-knows-what impact in terms of the scattering and unavailability of counsel who are now fully prepared to litigate the NEPA issues. In fact, the very expenditure of legal effort which plaintiffs asserted in connection with

their opposition to the government's § 1404 change in venue motion last summer documents the case, in terms of counsel time, for a nonpiecemeal approach. Clearly, only a small portion of that effort was on Mineral Leasing Act issues, just as an inconsequential portion of the enormous discovery effort in this case has been directed to Mineral Leasing Act issues.

In short, extensive discovery, collection of evidence, organizing and preparation of submissions concerning NEPA issues have been performed by counsel on both sides. Depositions have been conducted and more are now in preparation relating to NEPA issues. Except for legal arguments, the NEPA work has largely been completed. There is thus little time left to "save" in this respect.

4. *Granting of an appealable partial summary judgment in these circumstances would not expedite the case.*

Further, we note that partial summary judgment granted under Rule 56 does not necessarily amount to a final appealable judgment. However, in the event that the Court makes the determination asked by plaintiffs that there is no just reason for delay and enters a final judgment under Rule 54(b), appellate procedures will be initiated which will result in the pendency of trial and appellate matters at the same time. This may be appropriate in circumstances where an appellate ruling on one issue would provide necessary guidance to the trial court in a protracted proceeding. But where the resolution of one set of issues cannot be said to depend upon or await the resolution of another, such multiple proceedings would contribute to inefficiency rather than expedition. *Compare, G. D. Searle & Co.* v. *Institutional Drug Distributors, Inc.*, 151 F.Supp. 715 (S.C. Cal., C.D. 1957). Such a result would confound the traditional policy of the federal courts against piecemeal disposal of litigation and piecemeal appeals except where special circumstances provide justification. *See* Advisory Committee Note to Rule 54, 1946 Amendment. *And see* a state

case based on a similar rule, *Mayhury* v. *City of Seattle*, 336 P.2d 878, 882 (Wash. 1959), quoted with approval in Barron & Holtzoff, Federal Practice and Procedure, § 1241 (Wright ed. 1958):

> The prime purpose of all of the new rules, but more particularly the summary judgment rule, is to secure the "just, speedy, and inexpensive determination of every action." To now introduce an interlocutory appeal, where none existed previously, would put the whole process in reverse. Piecemeal appeals of interlocutory orders must be avoided in the interest of speedy and economical disposition of judicial business. To review the order complained of by certiorari would completely frustrate the very purpose of the summary judgment rule.

In short, difficult legal questions are presented in this case, reversal at one or another level of appeal is possible, and none of the special reasons to avoid ruling on all issues or to deviate from the practice of having a single set of hearing and appellate procedures operates in this case.

5. *Plaintiffs will suffer no prejudice from the deferral of their motion.*

Finally, as we have pointed out above, no construction will proceed without a decision by this Court, on the merits, of all matters pending in this case. Therefore, plaintiffs will suffer no prejudice if the Court defers consideration of their motion until the time when all issues can be heard on the merits.

6. *Conclusion*

For the reasons set forth above, Alyeska submits that its motion to hold plaintiffs' motion for partial summary judgment in abeyance should be granted and that no further action with respect to that motion should be taken until such time as the pretrial conferences and related proce-

dures have been completed, and the entire case is ready for submission to the Court.

Respectfully submitted,

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May 17, 1972.

(CAPTION OMITTED)

DEFENDANTS' MOTION TO WITHHOLD CONSIDERATION OF MOTION FOR PARTIAL SUMMARY JUDGMENT BY PLAINTIFF, WILDERNESS SOCIETY, ET AL.

For the reasons stated in the accompanying memorandum of points and authorities, the defendant, Rogers C. B. Morton, Secretary of the Interior, and Earl L. Butz, Secretary of Agriculture, hereby move the Court for an order deferring consideration of the motion by plaintiffs, Wilderness Society, et al., for partial summary judgment in this case.

In summary, the grounds for this motion are that to summarily dispose of this action on a single issue at this late date would result in great delay in the final resolution of the controversy, thus, work gross inequities upon the defendants and consequently be an inefficient, uneconomical use of the Court's time and the time and expense of the parties.

Respectfully submitted,

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DEFENDANTS' MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF THEIR MOTION FOR SCHEDULING PRE-TRIAL CONFERENCES AND IN SUPPORT OF THEIR MOTION TO DEFER CONSIDERATION OF PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

On April 23, 1970, this Court in Civil Action No. 928-70 issued a preliminary injunction enjoining the defendant, the Secretary of the Interior, from issuing any permit in connection with the Trans-Alaska Pipeline System until that defendant had complied with the National Environmental Policy Act and "unless plaintiffs are given fourteen (14) days' notice prior to the planned issuance thereof and plaintiffs are given an opportunity to challenge the issuance of said permit." On April 20, 1972, the Secretary of the Interior filed a Final Environmental Impact Statement in connection with the proposed Trans-Alaska Pipeline applications in compliance with the National Environmental Policy Act. On May 11, 1972, the defendant, the Secretary of the Interior, served upon plaintiffs and filed a notice of his intention to issue the permits for which application had been made. That notice informed the Court and the plaintiffs of the intention of the Secretary of the Interior to issue a permit across public lands of the United States in Alaska for a right-of-way for the construction of the Trans-Alaska Pipeline and at such times as may be appropriate to issue other permits within his authority that may be required in connection therewith. That defendant also served notice of his intention to take action that will result in the State of Alaska acquiring a right-of-way for highway purposes over public lands of the United States in Alaska and to take such other actions within his authority as may be necessary to the construction of such a highway.

On May 12, 1972, the plaintiffs in Civil Action No. 928-70 served their motion for partial summary judgment on legal issues relating to the Minral Leasing Act of 1920,

30 U.S.C. 185, and raising questions concerning the validity of regulations governing public lands of the United States promulgated by the Secretary of the Interior. The motion for partial summary judgment also raises questions concerning the action of the State of Alaska, intervener-defendant, to acquire a right-of-way under R.S. Section 2477, 43 U.S.C. 932.

The defendants have moved the Court for an order deferring consideration of plaintiffs' motion for partial summary judgment on the following grounds:

I

Summary Disposition of this Action on a Single Issue at this Late Date in the Proceedings Would in Fact Result in Greater Delay in The Ultimate Resolution Of the Controversy

The plaintiffs' motion for partial summary judgment in actuality presents for determination a single question—that is—the validity of regulations promulgated by the Department of the Interior authorizing issuance of permits for temporary use of public lands of the United States and a somewhat related question as to the validity of action by the intervener-defendant, the State of Alaska, to acquire a right-of-way for a highway under 43 U.S.C. 932. In support of their motion for partial summary judgment, plaintiffs submitted voluminous documentation and a memorandum. Consideration of the matters presented not only will require considerable time and study by the Court, but even if, after argument on opposing memoranda by the defendants, the Court should conclude that plaintiffs' motion is well taken, the controversy will be far from concluded as plaintiffs assert.

Since an appeal may be taken as a matter of right from an order granting the motion for partial summary judgment, 28 U.S.C. 1292, there is little question that review would immediately be sought by the defendants. Pursuing

appellate review of course will require considerable time and no doubt it would be months before a decision by the Court of Appeals. If partial summary judgment should be granted and affirmed on appeal, there would still remain the question of seeking a writ of certiorari.

In the event of a reversal, then after many months the case would be back before this Court for determination of the issues presented by plaintiffs in connection with the National Environmental Policy Act. As the Court now knows, the case is almost now ripe for a decision on all of the issues presented, including the legal issues raised by plaintiffs' motion for partial summary judgment, the other legal issues raised by Cordova District Fisheries Union in a previous motion for partial summary judgment, and on the adequacy of the environmental impact statement and the Secretary's compliance with the National Environmental Policy Act. The defendants have filed a motion to schedule pretrial conferences which will result in an orderly resolution of all matters for decision.

A motion for summary judgment is addressed to the sound discretion of the Court. *Boston & Maine Railroad* v. *Lehigh & New England R. Co.*, 188 F.Supp. 486; app. dismissed, 287 F.2d 678. Considering the voluminous pleadings, affidavits, exhibits and memoranda; the extensive arguments of counsel during preliminary and interlocutory proceedings, the technical nature of the subject matter and the complexity of the legal issues and the controlling legislation are it is submitted, compelling reasons not to attempt to dispose of this controversy on a summary motion.

As the Supreme Court has stated:

> Summary procedures, however salutary where issues are clear-cut and simple presents a treacherous record for deciding issues of far-flung import, on which this Court should draw inferences with caution from complicated causes of legislation, contracting and practices. *Kennedy* v. *Silas Mason Co.*, 334 U.S. 249, 256-257.

The Supreme Court in that case also stated that it considered it the better part of good judicial administration to withhold decisions until a complete record is prepared which presents a solid basis for findings and conclusions.

Consideration of plaintiffs' motion for partial summary judgment at this time and in the present posture of this litigation will not actually serve the purposes of Rule 56, nor will it result in the orderly and efficient disposition of the litigation. As shown below, to make a piecemeal determination is to invite delay in the final outcome which in this case would result in gross inequity to the defendants.

II

Consideration of the Motion for Partial Summary Judgment at this Time Could, and Would if the Motion Were Granted, Result in Gross Inequities to the Defendants

During the two years in which the preliminary injunction has been in force the Department of the Interior, in cooperation with and with the assistance and advice of independent experts, was engaged in the preparation of the Final Environmental Impact Statement. Because of the nature of the proposed project, that statement is by far the most voluminous impact statement prepared since the enactment of the National Environmental Policy Act.

Although the United States is not nominally a party to this action, it is obviously a real party in interest, and the cost to the Government of preparing the Final Environmental Impact Statement is estimated at several million dollars, and required two years of constant work by numerous personnel. The defendant, the Secretary of the Interior, did not make a decision as to his intention to issue the permits applied for until after the Final Environmental Impact Statement was completed and comments were received on it. However, the defendants now suggest that it may not have been premature on the part of the

plaintiffs, acting in good faith, to have amended their complaint two years ago and requested a declaratory judgment as to the validity of the actions proposed under the Mineral Leasing Act and the regulations concerning the temporary use of public lands. It occurs to the defendants that such relief could have been sought within the past two years and if plaintiffs' contentions are well founded, such action would have saved everyone, including the Court, the time and expense which would now be incurred by immediate consideration of the plaintiffs' present motion.

Moreover, during the past two years, as pointed out by the intervener-defendants, the Alyeska Pipeline Service Company also has incurred expenses running into the millions.

In view of the foregoing, it is submitted that this case should not be fragmented at this late date. Instead it is respectfully suggested that the Court should grant the defendants' motion and the intervener-defendants' motion to schedule the case for pretrial conferences as outlined in those motions and supporting memoranda and merely reserve for future argument and future decision the questions raised in plaintiffs' motion.

III

Since the filing by plaintiffs of their motion for partial summary judgment, plaintiffs on May 16, 1972, served a motion for leave to file an amended and supplemental complaint together with a proposed amended and supplemental complaint. Plaintiffs informed the Court the amended and supplemental complaint is designed merely to bring the pleading to a current status. However, even if that were true, the amended and supplemental complaint consists of 27 pages, containing 48 separately numbered paragraphs and numerous numbered paragraphs extending for from two to three pages. Whether or not the amended and supplemental complaint in fact presents nothing new in substance can be ascertained only after an appropriate time is allowed for study and for the filing by the defendants of an answer.

The amended and supplemental complaint filed is another example of the refusal or failure of plaintiffs to comply with the elementary rules of pleading. The complaint fails to set forth "a short and plain statement" as required by Rule 8 and the separately numbered paragraphs running only to number 48 are misleading since, as noted, several paragraphs contain two or three pages of allegations, thus failing to comply with Rule 10(b).

For the sake of economy of time, defendant will endeavor to respond to that amended and supplemental complaint. However, appropriate time is required and if for no other reason, plaintiffs' motion for partial summary judgment should be deferred now until an answer can be prepared and filed.

Respectfully submitted,

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PLAINTIFFS RESPONSE TO DEFENDANT'S MOTION TO DEFER CONSIDERATION OF PLAINTIFFS MOTION FOR PARTIAL SUMMARY JUDGMENT UNDER THE MINERAL LEASING ACT

Defendant Alyeska appears intent on involving this Court in a moot court competition.

If, as plaintiffs contend—and as this Court found in April, 1970—the Mineral Leasing Act means 50 feet when it says 50 feet; and if, as plaintiffs contend—and Alyeska does not dispute—the Secretary intends to issue permits for much more than 50 feet; then there is simply no need for this Court to involve itself at this time in an intellectual exercise as to whether the more complex requirements of the National Environmental Policy Act have been followed.

Unlike the NEPA issues, which have evolved both factually and legally over the more than two years that have elapsed since this Court's preliminary injunction, and which now require the completion of extensive discovery that has been deferred to this time by defendants, the Mineral Leasing Act issues remain unchanged. There have been no new judicial interpretations of the Mineral Leasing Act since April, 1970; there have been no Congressional amendments to the Act since April, 1970; and the nature of the oil companies' requests has not changed since April, 1970, except insofar as they are now requesting even more public lands than they did then.

The oil companies have had three full years to figure out why the Mineral Leasing Act does not mean 50 feet when it says 50 feet. Surely, they—and the Secretary—should now be required to provide their explanations. For, clearly, if the Secretary has authority only to issue permits of 50 feet, it is irrelevant whether he has given proper consideration to the environmental impact of permits in excess of 50 feet.

Plaintiffs suggest, therefore, that defendants be required to file responsive briefs to plaintiffs' Motion for Partial Summary Judgment within ten (10) days (they have already had the motion for seven days); followed by an expeditious consideration by the Court of the merits of plaintiffs' motion. If the Court concludes that plaintiffs' contentions are clearly correct—as it preliminarily concluded in April, 1970—it can then afford defendants the opportunity of an expedited appeal (which defendants could make either to the Court of Appeals or as may be far more appropriate, and [illegible] to Congress).

Respectfully submitted,

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EXCERPT FROM BRIEF OF APPELLEE ALYESKA PIPELINE SERVICE COMPANY COVERING MINERAL LEASING ACT AND TERMINAL FACILITY ISSUES. PP. 35-50

b. Revocable Permits Have Been Extensively Utilized by the Department of Interior for Many Years

(1) *The General Practice*

The Secretary of the Interior issues revocable permits, denoted SLUPs, under 43 C.F.R. Part 2920. The regulation states that it is the policy of the Secretary to issue permits for the beneficial use of the public lands "for special purposes not specifically provided for by existing law."[50] The regulation also states that a permit will not be issued where the provisions of any law may be invoked, or where it would be "inconsistent" with the land regulations of the Department or "in conflict" with law.[51] It provides that the permit "will be revocable in the discretion of the authorized officer at any time, upon notice, if in his judgment the lands should be devoted to another use or the conditions of the permit have been breached."[52] The regulation also makes provision for limitation of the size of the area permitted to that determined "necessary for the contemplated use," for imposition of stipulations considered necessary for protection of the lands and resources involved and the public interest in general, and for removal of improvements by the permittee on revocation or expiration of the permit.[53]

The regulation described refers, as the source of its authority for the issuance of SLUPs, to the statutes providing for the performance of all executive duties relating to the public lands by the Director of the Bureau of Land Management (BLM) under the direction of the Secretary of the Interior.[54] The regulation makes no reference to § 28 as authority. The practice in Interior is given additional support by the long-standing SLUP practices of the Department of Agriculture, which has given similar interpretations to its management authority.[55]

The published statistics of the Department of Interior reflect a large variety of uses authorized under special land use permits. Many of these uses have involved activities of a somewhat permanent nature. The Bureau of Land Management has authorized SLUPs for the following representative uses among others: government administrative sites, military sites, camp sites, warehouses, schools, water-supply developments, receiver station, public parking areas, aid-to-navigation sites, recreational sites, cemeteries, storage sites, sewage sites, fire stations, churches, fishing sites, airport sites, gospel missions, dock sites, communication centers, construction camps, boathouse sites, residence sites, garbage dumps, ore depots, pistol and rifle ranges, radio stations, dams, reservoirs, wells, signboards, water pipelines, aerial training sites, target sites, forest firebreaks, park trails, berms and ditches, fish hatcheries, tree nurseries, processing sites, storage ponds, sawmills, maintenance sites, oil tanks, bee-culture sites, ore stockpiling, stockyards, explosive storage gasoline storage, wildlife refuges, public roads, snow fences, office buildings, loading sites, agricultural uses, scouting purposes, ammunition purposes, launching ramps, gravel plants, ecology study, drainage barrels, experiment stations, instrument sites, observation sites, Indian school, disposal plants, powder magazines, rock-crushing plants, logging yards, millsites, crab-

[50] 43 C.F.R. § 2920.0-2.

[51] *Id.*

[52] *Id.* § 2920.3(a)(1).

[53] *Id.* § 2920.3(a)(2); § 2920.3(b); § 2920.5(d).

[54] *Id.* § 2920.0-3. The statutes referred to are 43 U.S.C. §§ 1, 2, 1201, 1361-1364, and 1411-1418. Section 1201 authorizes the Secretary or his designee to issue regulations to enforce and execute all provisions of Title 43 "not otherwise specially provided for."

[55] The management authority of the Secretary of Agriculture is discussed in detail in Part Two, *infra*, at 96-130.

bing sites, garden sites, university purposes, farm and homesites purposes, quarry sites, garden sites, lookout sites, protection roads, guard stations, access roads, spring development, fire trails, telephone rights-of-way, water stage recorders, building sites, boatlanding sites, transmitter sites, government headquarter sites, industrial sites, waterholes, logging camps, barn sites, corral sites, cable crossings, toolhouses, material stockpiles, monument-marker sites, grain elevators, testing facilities, radio towers, gravel pits, movie towns, railroad sidings, coal crushers and bins, ski lodges, checking stations, rodeo arenas, soapbox derby runways, mining sites, meeting halls, power substations, railroad purposes, trout-rearing ponds, cannery sites, restaurant sites, seaplane base sites, trading post sites, and fairgrounds. *See* Department of the Interior (DOI), Report of the Director of BLM, Statistical Appendix, at 28-32 (1955); *id.*, at 30-32 (1950); DOI, Report of the Commissioner of the General Land Office, Statistical Appendix, at 28 (1945).

More than one million acres were covered by SLUPs issued by BLM as of June 30, 1970. There were 1,111 BLM SLUPs in effect on that date covering 1.37 million acres. Department of the Interior, Public Land Statistics, at 31, 58 (1970). The use of such permits by BLM has remained at a high level for many years. A representative sampling of the figures for earlier years is:[57]

[57] *See* respectively Department of Interior (DOI), BLM, Public Land Statistics, 30, 58 (1969); *id.* at 38, 60 (1968); *id.* at 40, 63 (1965); DOI, Annual Report of the Director, BLM, Statistical Appendix 43, 71 (1960); *id.* at 46 (1958); *id.* at 27-30 (1957); *id.* (1956); *id.* at 28-32 (1955); *id.* at 28-31 (1954); *id.* at 28-32 (1953); *id.* at 30-33 (1952); *id.* at 30-34 (1951); *id.* at 30-32 (1950); *id.* at 31-32 (1949); *id.* at 30 (1948); *id.* at 32 (1947); DOI, Report of the Commissioner of the General Land Office, Statistical Index at 28, 29 (1946); *id.* at 28 (1945); *id.* at 46 (1944); Report of the Commissioner of the General Land Office, Division of Planning at 55-56 (1943); *id.* at 51 (1942); *id.* at 56 (1941).

For a more comprehensive indication of such uses, see the extracts from annual reports of the DOI in Supporting Documents, Vol. II, Tab 9.

Year	Acres	No. of Permits Issued
1969	1,200,000	1,168
1968	1,200,000	1,166
1965	870,000	1,166
1960	915,000	Not Published
1958	476,125	Not Published
1957	2,381,724	Not Published
1956	1,125,587	Not Published
1955	1,147,497	Not Published
1954	1,520,978	Not Published
1953	1,185,391	Not Published
1952	591,891	Not Published
1951	446,918	Not Published
1950	402,917	70
1949	404,936	54
1948	398,574	27
1947	393,572	23
1946	393,280	123
1945	393,175	102
1944	634,809	86
1943	314,965	88
1942	Not Published	44
1941	Not Published	4

Aside from the Department of the Interior, the Department of Agriculture also issues revocable land use permits extensively. Many of the uses also have been of a long-term nature. Moreover, many of them have involved the prospect of large capital investment in the permitted lands. The Secretary of Agriculture as of 1967 had granted 63,000 term and revocable permits (85% of them revocable) covering 80 different types of uses, of which approximately 53,000 involved permittee-built and owned improvements for such uses as airports, bathhouses, mills, observatories, rifle ranges, schools, stores, and ski-tows. The estimated value of these improvements is thought to have possibly

exceeded $1 billion. Hearings before the Subcommittee on Forests of the House Committee on Agriculture, 90th Cong., 1st Sess., Ser. J, pt. 2, at 2-4, 13 (1967). Published reports of the Department of Agriculture regularly set forth statistics on revocable permits.[58]

(2) *Pipeline Uses*

There is nothing novel about the Interior Department practice of permitting temporary use of adjacent land in conjunction with pipeline rights-of-way under § 28. As the affidavits of BLM officials indicate, it has been the well-established administrative practice and policy of the BLM to allow the temporary use of public lands in conjunction with all kinds of authorized activities on lands administered by the Bureau.[59] The temporary use for pipeline construction purposes along the § 28 right-of-way is just another example of the general practice and policy. *See* the affidavits of Bureau of Land Management officials Harold A. Berends, Theodore J. Bingham, Stuart W. Gearhart and Malcolm L. Johnson, in Supporting Documents, Vol. I, Tabs 6-9.

Over the years, according to the BLM officials' affidavits, the BLM's approval of temporary uses for pipeline construction purposes has generally been informal, apparently based on implied powers obviously required to effectuate § 28. The companies have simply made temporary use of more land in constructing pipelines than the width specified

[58] For example, there were 63,386 permits outstanding in 1965 covering 5,075,529.63 acres, excluding SLUPS to DOI and FPC. Department of Agriculture, Forest Service, Special-Use Permits Biennial Report (1965), Supporting Documents, Vol. II, Tab 11.

[59] *See, e.g.*, BLM SLUP Arizona A4291 (batch plant and crusher site, material stockpiles and storage in conjunction with highway right-of-way); Arizona A1904 (temporary road connection in conjunction with highway right-of-way); California 02-71-01 (water well and pipe in conjunction with telephone company power feed building site).

in their permanent easements granted pursuant to § 28.[60] The Bureau indicates that it has been well aware of this practice and has permitted it as not inconsistent with the permanent right-of-way granted under § 28.[61] A practice has evolved in recent years whereby some field offices now formalize the temporary use of additional land for construction purposes by issuing special land use permits. This procedure is being utilized especially in situations where either the grantee of a pipeline right-of-way might be careless in his use of additional land, or where environmental damage is likely outside the right-of-way, and the granting officer desires to impose certain controls. The Bureau officials indicate that they are aware of no instance in which action has been taken to prevent the temporary use of additional space for pipeline construction purposes.

There are more than half a million miles of liquid and gas pipelines throughout the United States.[62] Many thousands of miles of these are cross-country pipelines which traverse the public lands in the western states and require authorization under § 28 of the Mineral Leasing Act. These include large lines ranging up to 36 and 42 inches in diameter. Obviously, such pipelines crossing the public lands have required the use of temporary construction and access space under authority provided by the Bureau of Land Management.

Customary practice in the pipeline industry is to utilize during pipeline construction amounts of land varying in

[60] *See also*, affidavits of James W. Hall, Alton W. Tyler, and Max Krutsinger, in Supporting Documents, Vol. I, Tabs 2, 3 and 5.

[61] *See also, id.*

[62] This figure includes only crude oil and gas gathering and trunk transmission lines, and product lines. It excludes gas distribution lines. Department of Transportation, Office of Pipeline Safety, Transmission and Gathering Report for Calendar Year 1970 at 1001 (1971); Department of the Interior, Bureau of Mines, Mineral Industry Survey, January 1, 1971.

width depending upon the type and condition of the terrain traversed.[63] Ordinarily, a strip of land approximately 100 feet in width is required for construction of medium to large diameter lines in order to provide room for the ditch, the ditch spoil, space to maneuver vehicles and heavy equipment, and space for bending, welding and handling of the pipe.[64] The space required for construction may substantially exceed 100 feet where topography or soil conditions require.[65] For example, cutting of slopes, crossing of rivers, or construction on unstable ground may require as much as 600 feet of width on a temporary basis.[66]

It is clear that normal pipeline construction practices involving the use of substantial widths of land in addition to the permanent right-of-way have ordinarily been permitted by the responsible officials of the BLM, including the use of very wide additional space on a temporary basis during construction in difficult areas.[67]

Even in circumstances in which unusually strict construction standards were imposed, such as in national monuments and some forest lands, these restrictions ordinarily

[63] Affidavits of Harold A. Berends, Theodore G. Bingham, Stuart W. Gearhart, Malcolm L. Johnson, Dean F. Smalley, James W. Hall, Alton T. Tyler, and Max Krutsinger, in Supporting Documents, Vol. I, Tabs 1-3, 5-9.

[64] Affidavits of Dean F. Smalley, James W. Hall, Alton T. Tyler, Haven E. Van Heusen, and Max Krutsinger, in Supporting Documents, Vol. I, Tabs 1-5.

[65] Affidavits of Dean F. Smalley, James W. Hall, Alton T. Tyler, in Supporting Documents, Vol. I, Tabs 1-3.

[66] Affidavit of Alton T. Tyler, in Supporting Documents, Vol. I, Tab 3.

[67] Affidavits of Harold A. Berends, Theodore G. Bingham, Stuart W. Gearhart, Malcolm L. Johnson, James W. Hall, Alton T. Tyler, Haven E. Van Heusen, and Max Krutsinger, in Supporting Documents, Vol. I, Tabs 2-9.

did not relate to the width of land used.[68] In some respects, the practice of the Department of the Interior with respect to permitting the use of construction and access space is difficult to document because of its informality. Where permission is granted for ingress and egress to the primary right-of-way under the implied authority of § 28 of the Mineral Leasing Act, there would rarely be occasion to provide a written record.[69] Nevertheless, the Bureau of Land Management files do reflect the issuance of supplemental SLUPs to provide additional land paralleling the § 28 rights-of-way for construction purposes. *See, e.g.*, BLM SLUPs Oregon OR 010647 (September 1, 1960); Oregon OR 010659 (October 5, 1960); Idaho I 011837 (September 8, 1960); New Mexico NM 9466 (June 5, 1969); New Mexico NM 13111 (January 7, 1971). In one instance, the use of a strip of land 50 feet wide and 31.5 miles long was provided under two three-year SLUPs parallel to and contiguous with a gas pipeline right-of-way granted under § 28. *See* BLM SLUPs Oregon OR 010647 and OR 010659, *supra*. One of these SLUPs indicated that its purpose was to "construct, operate and maintain a natural gas pipeline and store construction equipment temporarily." In another instance, a one-year SLUP was given for a 25-foot strip, 22.5 miles long, parallel to and contiguous with four § 28 pipeline rights-of-way. The purpose of this SLUP was to "facilitate pipeline construction." *See* BLM SLUP, New Mexico NM 9466.

Several such SLUPs were obtained by Pacific Gas Transmission Company. As the affidavit of Haven E. Van Heu-

[68] Affidavits of James W. Hall, and Alton T. Tyler, in Supporting Documents, Vol. I, Tabs 2-3.

[69] Although the regulations have provided since 1959 for additional rights-of-way for ingress and egress, 43 C.F.R. § 2801.1-3, this provision gives greater rights than are generally needed for temporary construction uses, and it does not appear to be used for this purpose.

sen [70] indicates, these were obtained as a result of the need of Pacific Gas for the use of additional 50- and 25-foot strips for temporary construction space during construction of the Alberta to San Francisco 36-inch gas pipeline. This affidavit reflects that no instances occurred in connection with that pipeline project in which Bureau of Land Management officials failed to permit the use of temporary construction space requested. The experience of Pacific Gas would appear to be typical of those cases in which the formal route of obtaining SLUPs was used, rather than proceeding under the implied necessities doctrine under § 28.

In short, the present practice of the Department of the Interior with respect to use of temporary widths adjacent to the pipeline right-of-way for construction and access needs reflects an old, well-established informal policy and practice which, more recently, has been evolving into a formalized procedure. But regardless of the procedure employed, there very clearly has been and is a consistent practice of permitting the use of additional space on a temporary basis where this is reasonably necessary.

c. Congress Has Acquiesced in the Practice of Utilizing Revocable Permits

(1) *Notice of the General Practice*

The use of revocable permits has been brought to the attention of Congress on many occasions. As early as 1898, in concluding that a revocable permit for a street railroad was authorized by law, the Attorney General found an implied knowledge and consent to such uses on the part of Congress:

> Long-continued exercise of a power of this kind . . . and the open and notorious use of government reservations by such licensees without legislative objection from Congress and without the adoption of any legislative rule upon the subject, implies the tacit assent of Congress to this custom. [22 Op. Att'y Gen. 240, 245 (1898).]

[70] Supporting Documents, Vol. I, Tab 4.

More recently, Congressional committees have given explicit recognition to the broad use of revocable permit powers by executive officials:

> The Department of Agriculture now has adequate authority to issue revocable permits *for all purposes* under the act of June 4, 1897 (16 U.S.C. § 551). [H.R. Rep. 2792, 84th Cong., 2d Sess. 2 (1956) (emphasis added).] [71]

An awareness that revocable permit practices extended to both Interior and Agriculture is reflected in H.R. Rep. 2243, 83d Cong., 2d Sess. (1954). Congress has indicated its awareness of the use of revocable permits on other occasions as well. Congressional proposals relating to land use authorizations of the Secretaries of Interior and Agriculture have frequently included declarations and findings that the Secretary could issue and was issuing revocable permits for various purposes under authority of the general laws relating to lands under their jurisdiction. *See* S. Rep. 967, 61st Cong., 3d Sess. 1 (1911); S. Rep. 754, 72d Cong., 1st Sess. 2 (1932); H.R. Rep. 805, 80th Cong., 1st Sess. 2 (1947); Hearings on H.R. 1809 before Subcommittee No. 2 of the House Committee on Agriculture, 80th Cong., 1st Sess. 2, 6 (1947); S. Rep. 899, 80th Cong., 2d Sess. 2 (1948); S. Rep. 1224, 82d Cong., 2d Sess. 1, 3, 4, 5 (1952); H.R. Rep. 1742, 83d Cong., 2d Sess. 2 (1954); S.

[71] The same language appears in S. Rep. 2511, 84th Cong., 2d Sess. 1 (1956). The Act referred to gives the Secretary of Agriculture broad regulatory powers, including authority to "make such rules and regulations . . . as will insure the objects of such reservations [the public forests and national forests], namely, to regulate their occupancy and use. . . ." This is similar in scope to the statutes governing the revocable permit authority of the Secretary of the Interior.

Rep. 2511, *supra*, note 71 at 1 (1956); H.R. Rep. 2792, *supra*, at 2 (1956).[72] In 1967, Congress was again advised of the broad range of activities for which revocable permits had been issued, and of the extensive improvements that permittees under those permits had constructed. *See* Hearings before the Subcommittee on Forests of the House Committee on Agriculture, 90th Cong., 1st Sess., Ser. J, Pt. 2 at 2-4, 13 (1967).

(2) *Specific Notice Regarding Permits for the Trans-Alaska Pipeline*

In 1969, the Interior Department briefed both the Special Subcommittee on Oversight of the Senate Committee on Interior and Insular Affairs[73] and the full Committee[74] on plans for the pipeline. These briefings were in connection with a proposed modification of the public land "freeze" order[75] to permit construction to begin on the pipeline. Following extensive hearings which included frequent reference to the planned use of SLUPs for construction of the pipeline, the full Committee stated that it had no objections to the proposed modification of the "freeze"

[72] A number of quotations from these references are set forth, *infra*, at 113-115, in the discussion of issues raised by plaintiff *Cordova*, and will not be repeated here. The quotations leave no room for speculation regarding notice to the Congress.

[73] Hearing on Oversight of Oil Development Activities in Alaska before the Special Subcommittee on Legislative Oversight of the Senate Committee on Interior and Insular Affairs, 91st Cong., 1st Sess. (August 12, 1969).

[74] Hearings before the full Senate Committee on Interior and Insular Affairs, were held September 9, October 16, and November 25, 1969. Hearings on the status of the proposed Trans-Alaska Pipeline before the Senate Committee on Interior and Insular Affairs, 91st Cong., 1st Sess. (1969).

[75] Public Land Order No. 4582, January 17, 1969.

order.[76] The House Committee on Interior and Insular Affairs, similarly briefed,[77] signified its acquiesence in the issuance of the SLUPs in a resolution that stated in part:

> On the basis of the information furnished by the Department and the extensive hearings . . . the Committee has no objections to the proposed modification to the Public Land Order No. 4582, and the grant of the proposed right of way. . . .

This right to build the pipeline was recognized by the Committee to include the granting of "appropriate permits" to build, *inter alia:*

> Pumping plant sites, access facilities, terminal facilities, catch basins and *any other structures reasonably necessary or convenient* for transportation of oil by pipeline from . . . Northern Alaska to . . . the Gulf of Alaska. (emphasis added)[78]

In addition to these explicit references to rights to be granted by SLUPs, Congress has repeatedly been made aware of the Secretary's intended exercise of this power in the trans-Alaska pipeline case. The House Committee on Appropriations and the Senate Committee on Appropriations have appropriated funds for 1970, 1971, and 1972 to the Department of the Interior for the trans-Alaska

[76] Hearings on "Alaska Land Freeze—Trans-Alaska Pipeline System" before the House Committee on Interior and Insular Affairs, 91st Cong., 1st Sess. 223-226 (1969) (unpublished transcript).

[77] Hearings on the trans-Alaska pipeline issue were held before the House Committee on Interior and Insular Affairs, July 30; August 6; October 1, 8, 21, and 28; November 12 and 26; December 16, 1969; and April 15 and 29, 1970. Hearings, *supra*, note 76. The hearings included testimony by Under Secretary Train and on-site inspections by Committee members.

[78] Hearings, *supra*, note 76, at 219-220, 258, 260 and 272.

project.[79] Each time these Committees have required full information regarding the amount of land required for construction of the pipeline, and were thoroughly briefed on the proposed issuance of special land use permits.[80] These briefings included testimony by then-Director of the Bureau of Land Management, Boyd L. Rasmussen, and BLM Deputy Assistant Director for Resources, Dale Andrus, that the pipeline would require a 54-foot right-of-way plus additional working land, to be provided by SLUPs for a total of 200 feet.[81] In addition, the Committees received from time to time status reports on the trans-Alaska pipeline, stating in part that special land use permits would be issued for construction camps and temporary communication sites.[82]

[79] That appropriations for a practice by a fully informed Congress amount to a ratification of that practice is made clear in *Ivanhoe Irrigation Dist.* v. *McCracken*, 357 U.S. 275, 293 (1958); *Brooks* v. *Dewar*, 313 U.S. 354, 360-61 (1941). *See also Polson Logging Co.* v. *United States*, 160 F.2d 712, 715-16 (9th Cir. 1947).

[80] See *e.g.*, Hearings on H.R. 15209, Supplemental Appropriation Bill, 1970, before the Subcommittees of the House Committee on Appropriations, 91st Cong., 1st Sess. (1969); S. Rep. 91-616, 91st Cong., 1st Sess. (1969); H.R. Rep. 91-1095, 91st Cong., 2d Sess. (1970); S. Rep. 91-985, 91st Cong., 2d Sess. (1970); Hearings on H.R. 17619, Department of the Interior and Related Agencies Appropriations, before a Subcommittee of the House Committee on Appropriations, 91st Cong., 2d Sess. (1970); Hearings on H.R. 17619 Department of Interior and Related Agencies Appropriations, before a subcommittee of the Senate Committee on Appropriations, 91st Cong., 2d Sess. (1970).

[81] Hearings on H.R. 15209, Supplemental Appropriation Bill, 1970, before Subcommittees of the House Committee on Appropriation, *supra*, note 80 at 643-45, 658-59 (1969).

[82] See, *e.g.*, Hearings on H.R. 9417, Department of the Interior and Related Agencies Appropriations for 1972, before a subcommittee of the House Appropriations Committee, 92d Cong., 1st Sess., 335-40 (1971); Hearings on H.R. 9417, Department of the Interior and Related Agencies, Appropriation for Fiscal Year 1972 before a subcommittee of the Senate Committee on Appropriations, 92d Cong., 1st Sess. 136-139 (1971).

Finally, the most persuasive evidence of Congressional acceptance and approval of the practice of issuing SLUPs, and recognition of the special appropriateness of that practice in the trans-Alaska case, is presented in the Conference Committee Report accompanying S. 35 and H.R. 10367, the Alaska Native Claims Settlement Act, 85 Stat. 688, 43 U.S.C.A. § 1601, *et seq.* (Supp. April 1972). See H.R. Rep. 92-746, 92d Cong., 1st Sess. (1971). Ironically, plaintiffs have cited this Committee's action in substituting the House version of § 24(d)(3) of this bill for the Senate version as an example of Congress refusing to broaden the Secretary's discretionary powers in the trans-Alaska case.[83] Contrary to what the plaintiffs would have the Court believe, the Conference Committee substituted the House version because the Senate version would have *restricted* the Secretary's powers in dealing with the pipeline situation. Plaintiffs apparently overlooked the statement in the Conference Report explaining that the substituted version was chosen because:

> This language would also permit the Secretary, if he should so decide in the future, to grant the necessary rights-of-way, permits and other legal authority necessary for the construction of the proposed trans-Alaska oil pipeline. The conference committee did not consider the proposed pipeline in connection with the resolution of the differences between the bills, nor did the House or Senate Committees consider the proposed pipeline in connection with hearings on this subject. Accordingly, the conference committee takes no position on what action the Secretary should take with respect to the pending application. The conference committee does, however, want it clearly understood that if the Secretary should, after full and careful evaluation, and after completion of the Environmental Impact Statement required by the National Environmental Policy Act, decide to grant the necessary permits, *nothing in this conference report is intended to, nor should be construed in any manner to limit, diminish, or condition the Secretary's existing authority to*

[83] Plaintiffs' Memorandum at 3.

take any action required to implement this decision.[54] (emphasis added)

d. The SLUP Power Would Be Justified as an Implied Power Under § 28 of the Mineral Leasing Act

Far from limiting the Secretary's revocable permit authority, §§ 28 and 32 of the Mineral Leasing Act provide an independent basis for it, sufficient to sustain the permits sought here[55] even if they were not authorized pursuant to the Secretary's general land management powers.

In a subsequent section (*infra*, at 67) we discuss the well-established implied power of the Secretary to include necessary facilities within a right-of-way as an implied authority. The principle involved is that Congress must have intended § 28 to include all those facilities and uses of land necessary to secure the central objective of allowing pipeline construction.[56]

The necessity of additional space for construction has been demonstrated.[57] Such additional construction space is no less necessary to the ultimate purpose of achieving an operable pipeline than a pumping station. It is simply a form of necessary use which comes earlier in time, and it does not require a continuing grant, affecting title, in order to effectuate § 28's purpose. It is, in fact, a form of access to the principal right-of-way, and implied rights of access have long been recognized.[58]

While such additional space might well be granted as a right-of-way, on the theory that any land which the pipe-

[54] H. Rep. 92-746, 92d Cong., 1st Sess., 46 (1971).

[55] Section 32 (30 U.S.C. § 189) authorizes the Secretary "to prescribe necessary and proper rules and regulations and do any and all things necessary to carry out and accomplish the purposes of [the Mineral Leasing Act]."

[56] *Infra*, at 72.

[57] *Supra*, at 7-19, 40-44.

[58] *See Russell* v. *Sebastian*, 233 U.S. 195 (1914); *City of Davenport* v. *Three-Fifths of an Acre, More or Less*, 252 F.2d 354, 356 (7th Cir. 1950).

line activity actually uses is allowed,[59] there is no requirement to do so. Interpreting such implied power as no greater than necessary to achieve the purpose of the provision from which implied[60] would justify the granting of a revocable permit, to be revoked when use of the land for construction is no longer required.[61]

e. The Amount of Space Requested by Alyeska Is Reasonable

The uses sought by Alyeska have all the required characteristics of temporariness and revocability. Moreover, these uses reflect a reasonableness and proportion to the legitimate needs of the project which we believe go far toward justifying the permit. We will not repeat here the detailed discussion of pipeline practices set forth, *supra*, at pages 7-19, 40-44. That discussion more than adequately demonstrates the practical necessity and reasonableness of the Alyeska request. The need to maneuver multiple pieces of large equipment, to string and weld pipe, to ditch or build above ground supports, to store the earth removed from ditch and cuts—and the need to provide slopes which will be stable and capable of revegetation—all these needs are amply justified.

In short, to the extent they were not already provided for as necessarily implied in the right-of-way easement itself, Alyeska's land utilization plans serve in the most direct way the "special purposes not specifically provided

[59] *See* the remarks of Representative Chandler, 56 Cong. Rec. 7098 (1918), quoted *infra*, at 70-71.

[60] *Cf. Yates* v. *Gulf Oil Corp.*, 182 F.2d 286 (5th Cir. 1950); also, *McCullough* v. *Maryland*, 17 U.S. (4 Wheat.) 159 (1819).

[61] The Secretary's regulations provide that SLUPs may be issued only for "special purposes not specifically provided for by existing law." 43 C.F.R. § 2920.0-2(a). This has been construed not to bar a SLUP unless authority is available to provide an identical use. Solicitor's Opinion, 59 I.D. 313 (1946) (SLUP authorized to private applicants for recreational use, where statute authorized lease to government agency for same use). *Accord*, *Alfred E. Koenig*, 78 I.D. 305 (1971) (SLUP not authorized for non-exclusive road to mineral claim, where identical use provided under implied necessity doctrine).

for by existing law" which the SLUP power of the Secretary of Interior is designed to facilitate. Every measure planned is closely related to the goals of pipeline integrity, environmental protection, personnel and equipment safety, and employment of common construction equipment and techniques. There is no planned use of space that is not reasonably necessary for proper construction of the pipeline. The future value and usefulness of the SLUP land is not threatened by the work which will take place upon it. That portion of the gravel pad which will extend into the SLUP area will be removed at any time the government wishes. Once construction work is completed, the working space can be reduced so that no regular operations or maintenance will need to be accomplished beyond the statutory right-of-way limits. These matters will be wholly within the discretion of, and controlled by, the appropriate government officers.

EXCERPT FROM BRIEF OF APPELLEE ALYESKA PIPELINE SERVICE COMPANY COVERING NATIONAL ENVIRONMENTAL POLICY ACT ISSUES, PP. 6-36

II. STATEMENT OF FACTS

A. PRE-NEPA CHRONOLOGY

1. Discovery of Oil and Early Efforts To Develop Transportation System

During the period 1964 through 1967, the State of Alaska sold leases to various oil companies for oil exploration and development on a total of 900,000 acres of State land on the North Slope of Alaska. Operating under these leases, the oil companies began exploratory work.

In January 1968, a major oil field was discovered at Prudhoe Bay on the North Slope of Alaska, 200 miles north of the Arctic Circle. Shortly after the Prudhoe Bay discovery, Atlantic Richfield Company and Humble Oil and Refining Company initiated comprehensive feasibility studies to determine the best method for moving the oil to market.

In July 1968, these companies engaged Pipeline Technologists, Inc. (Pipe Tech), a pipeline engineering consulting firm, to make a study of the feasibility of a pipeline system from Prudhoe Bay to the southern coast of Alaska. Pipe Tech obtained the necessary permits from the Department of Interior to make surveys for use in their study. In October 1968, Pipe Tech completed the study, concluding that a secure pipeline could be constructed, operated and maintained.

A task force also investigated the economic and technical feasibility of a 3000 mile pipeline route to Chicago, extending across the North Slope and paralleling the Mackenzie River Valley. The results of this investigation were received in December 1968.[1]

Late in 1968, Atlantic, Humble and BP Pipe Line Corporation formed the Trans Alaska Pipeline System (TAPS) for the purpose of developing plans for and constructing a pipeline. After comparing and analyzing the reports, in February 1969, TAPS announced the decision to construct a pipeline to the southern coast of Alaska. Thereafter, meetings were held between Bureau of Land Management (BLM) personnel and representatives of the pipeline companies. Information from these meetings was compiled and transmitted to the Alaska State Director of BLM and the Bureau Director in Washington. In April of 1969, BLM District Offices in Alaska issued exploratory permits subject to certain stipulations.[2]

2. Appointment of Federal Task Force

Also in early 1969, the Secretary of Interior established a Task Force on Environmental Protection of Arctic Alaska ("North Slope Task Force") composed of representatives of seven Department of Interior bureaus and

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[1] Admin. Rec.* 1.1.4.1.2.

[2] Supporting documents, Vol. 4, Tabs 13 and 14.

offices.[3] This Task Force was charged with the dual responsibilities of assuring orderly development of federally-owned lands on the North Slope and also assuring protection of the environment. Interior Under Secretary Russell E. Train was designated chairman.

President Nixon applauded the Secretary's initiative and emphasized "it is urgent that we consider now the ways in which we can explore and develop, without destruction and with minimum disturbance, the oil resources of Northern Alaska."[4] At the President's suggestion, the Task Force was expanded to include representatives from the Departments of Commerce, Defense, Health, Education and Welfare, and Transportation. Also added were representatives of the Department of Housing and Urban Development, the Office of Science and Technology, the National Science Foundation, and the Office of Management and Budget.[5] The enlarged Task Force was designated the "Federal Task Force on Alaskan Oil Development." Representation from an *ad hoc* conservation-industry committee was also added.[6] A coordination and consultation group associated with the Task Force included representatives from the State of Alaska, Federal Field Commission, AEC, Department of Agriculture (Forest Service), University of Alaska, Army Corps of Engineers, and Navy Office of Naval Research.[7]

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[3] Horton affidavit* at 2. The participating bureaus and offices were: Bureau of Land Management, Bureau of Sport Fisheries and Wildlife, Bureau of Commercial Fisheries, Bureau of Indian Affairs, U.S. Geological Survey, Federal Water Pollution Control Administration, and Science Advisor to the Secretary. Senate Pipeline Hearings* at 98.

[4] Memorandum from the President to Secretary Hickel, May 9, 1969, supporting documents, Vol. 4, Tab 17.

[5] Horton affidavit* at 2-3.

[6] *Id.* The co-chairmen of this committee were John L. Hall, Assistant Executive Director of the *Wilderness Society*, and Richard E. Dulaney, Chairman of TAPS. Senate Pipeline Hearings* at 98 n.2.

[7] Senate Pipeline Hearings* at 98.

3. Early Briefing of Environmental Organizations

On May 8, 1969, Under Secretary Train held a briefing for a number of conservation organizations, including *The Wilderness Society*, the Sierra Club and the Izaak Walton League. At the briefing, the Under Secretary described the proposed pipeline system and the Department of the Interior's responsibilities and proposed approach. It was made clear that the Department was keeping its full range of options open.[8]

4. Application for Pipeline Right-of-Way

On June 6, 1969, a formal application for a pipeline right-of-way was filed by Atlantic, Humble and BP, as principals of TAPS.[9] The application described a preliminary alignment from a point near Prudhoe Bay to a point near Valdez, and requested prompt favorable action. On June 27, 1969, Secretary Hickel responded that no permit would be issued until all requirements of law and regulation had been met, until the Department was satisfied that the interests of the Native peoples of Alaska had been safeguarded, and until it could be demonstrated that environmental values would be adequately protected.[10]

Later in 1969 a revised pipeline right-of-way application was submitted by the original three companies and five additional companies which had joined the original three.[11] Applications were also filed for special land use permits for additional temporary construction space and for a haul road north of the Yukon.[12]

5. Questions Submitted to Applicant

On June 10, Under Secretary Train submitted seventy-nine questions to TAPS covering such matters as ecological

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[8] Supporting documents, Vol. 3, Tab 24.

[9] Admin. Rec.* 1.1.1.2. The application was filed pursuant to § 28 of the Mineral Leasing Act, 30 U.S.C. § 185.

[10] Exh. 10 to Horton affidavit*, supporting documents, Vol. 5, Tab 18.

[11] Supporting documents, Vol. 5, Tab 20.

[12] Supporting documents, Vol. 5, Tabs 21 and 22.

and technical information and the choice of Valdez for the terminal site. These questions were answered in detail, including a discussion of other terminal sites investigated and the reasons for selection of Valdez.[13]

6. Environmental Stipulations

Shortly after enlargement of the Task Force, its chairman visited Alaska to discuss the proposed project, and as a result of this visit, directed that stipulations be developed to protect the environment. An interdisciplinary study team of selected personnel was assigned to develop draft environmental stipulations. Working on this project, in addition to the Federal Task Force on Alaskan Oil Development, were nine Department of Interior agencies in Alaska, State of Alaska agencies (Departments of Fish and Game, Natural Resources, and Highways), the Corps of Engineers, and the Federal Field Committee.[14]

A first draft of the Stipulations was completed on July 18, 1969.[15] As described by the then Assistant to the Secretary of Interior and Executive Secretary of the Federal Task Force on Alaskan Oil Development, the Stipulations were "designed to provide the fullest possible protection for the integrity of the Alaskan environment and for the rights of Alaska Natives."

> The intent of the stipulations has been to maximize the safety of arctic pipeline construction and to minimize environmental degradation. . . . They incorporate a unique redirection of the traditional focus of Federal control from engineering specifications to protection of the environment. They are considered by the Department as providing the strictest supervision ever imposed upon a privately constructed project. Under them it is the prerogative of the United States Government to:
>
> (1) require modification of the alignment and installation of the pipeline system;
>
> (2) require rehabilitation of any property, resource, or land harmed by any pipeline activity;
>
> (3) revise or amend the stipulations, as necessary, to adjust to unforeseen conditions;
>
> (4) suspend or terminate any or all activities if and when any of the terms and conditions of the permit are not met.
>
> In content, the stipulations provide strict safeguards for the protection of Federal lands from pollution, erosion and human negligence, as well as setting forth safeguards for fish and wildlife and the interests of Alaska natives. . . . [T]he Department considers them a landmark in the development of environmental management in the United States.[16]

The proposed Stipulations were edited and refined by the Task Force and made available to a large number of conservation organizations and other individuals who had expressed interest in the matter.[17] On August 29 and 30, the Department of Interior held a public hearing in Fairbanks, Alaska, on the proposed Stipulations.[18] TAPS made a complete presentation of its plans for the pipeline, including the route and plans for protection of the environment. Representatives of numerous conservation groups, citizens of Alaska, and public officials, including the Governor of Alaska, were heard.

7. Formulation of Menlo Park Working Group

During the course of the hearing, Under Secretary Train announced the formation of a special governmental study group under the leadership of Dr. William Pecora of the

[13] The questions and answers, and accompanying correspondence, are set forth at pages 83-98 of the Senate Pipeline Hearings.* These pages are included in supporting documents, Vol. 4, Tab 28. *See* Admin. Rec.* 1.1.2.1.

[14] Horton affidavit* at 14; Senate Pipeline Hearings* at 77.

[15] *See* Exh. 1 to Horton affidavit*, supporting documents, Vol. 5, Tab 17.

[16] Horton affidavit* at 16-17.

[17] *Id.* at 10; Exh. 11 to Horton affidavit*, supporting documents, Vol. 5, Tab 19.

[18] The Fairbanks hearing transcript and exhibits are contained in the Admin. Rec.* 4.1.1 and 4.1.2.

United States Geological Survey.[19] This group, informally called the Menlo Park Working Group, went immediate session, working initially on problems of construction in permafrost.[20]

8. Lease Sale

In September of 1969, another lease sale was held and the State of Alaska obtained from a number of oil companies bonuses totaling $900 million on leases covering an additional 450,000 acres on the North Slope.[21] The leasehold agreements provide for the State to receive a 12½ percent royalty on the gross wellhead value of oil and gas production from the leaseholds.[22]

9. Coordination with Congressional Committees

In the latter part of 1969, the Senate and House Interior Committees were kept fully advised of all matters relating to the project.

Early in 1969, by Public Land Order 4582, all unreserved public lands in Alaska had been withdrawn pending determination of Alaskan Native land claims.[23] On July 29 the Secretary of Interior notified the House and Senate Interior Committees that he proposed to modify the land freeze order to permit construction of a highway between the town of Livengood and the Yukon River.[24] There was no congressional objection to this action,[25] and the modification was ordered on August 13, 1969.[26] Thereafter, the State of Alaska, under R.S. 2477, 43 U.S.C. § 932, took a

[19] Admin. Rec. 4.1.1 at 88-89. Dr. Pecora subsequently became Under Secretary of the Department.

[20] *Id.* at 261. Members are identified in the Sanger dep.* at 95-98.

[21] Exh. 1 to Horton affidavit,* supporting documents, Vol. 5, Tab 17.

[22] Admin. Rec.* 3.1 at 58.

[23] 34 Fed. Reg. 1025 (1969), supporting documents, Vol. 4, Tab 1.

[24] Supporting documents, Vol. 4, Tab 20.

[25] Supporting documents, Vol. 4, Tabs 16 and 18.

[26] Public Land Order 4676, 34 Fed. Reg. 13415 (1969), supporting documents, Vol. 4, Tab 2.

right-of-way from Livengood to the Yukon River and the three above-named companies, as contractors for the State, constructed the State highway.[27]

On September 8 and 9, 1969, TAPS made presentations to the House and Senate Interior Committees similar to that made in Fairbanks to the Department of Interior.[28]

The Stipulations were finalized and signed by the Secretary in mid-September, and on September 30, copies were sent to the Commitees.[29] Hearings were held on the Stipulations and related matters in October and representatives of numerous conservation organizations testified.[30]

The Secretary also sent the Committees a draft of a proposed modification of Public Land Order 4582 which would allow the Department to grant a pipeline right-of-way from Prudhoe Bay to Valdez.[31] On October 23, 1969, the Chairman of the Senate Committee posed a number of questions to the Department regarding the proposed pipeline; answers were received on Novmber 20.[32]

[27] *See* letter from Alaska State Dept. of Highways to Alyeska, supporting documents, Vol. 4, Tab. 15. In 1969 and again in 1970, the State of Alaska opened an ice road (winter trail) from Fairbanks to Sagwon on the North Slope. This road started near Livingood and traversed via Stevens Village, Bettles, and Anaktuvuk Pass to Sagwon. This winter trail was used by TAPS contractors in their road mobilization effort.

[28] Senate Pipeline Hearings* at 2-36; House Pipeline Hearings.*

[29] Senate Pipeline Hearings* at 80. The Stipulations are set forth on pages 39-77 of the Hearing record and are included at Admin. Rec.* 2.9.1.

[30] Senate Pipeline Hearings* at 173-252, 265-272.

[31] *Id.* at 80. The proposed modification also would authorize the granting of additional rights-of-way and other permits "reasonably necessary or convenient for the construction, maintenance, or operation of the oil pipeline system," and the sale of forest products and mineral materials. *Id.* at 37-38.

[32] *Id.* at 285-294.

On December 11 and 16, respectively, the Senate and House Committees advised the Secretary that they had no objection to the proposed modification of the land freeze order.[33] Both Committees expressed approval of the approach taken in the proposed Stipulations.[34] Subsequently, Secretary Hickel signed the proposed modification of the land freeze order[35] and BLM issued mobilization authority allowing five road construction contractors to develop construction camps and mobilize for construction of the road north of the Yukon River.[36] Environmental Stipulations were attached to all permits and BLM officials monitored activities in the field to assure compliance.[37]

B. POST-NEPA CHRONOLOGY

1. Appointment of Technical Advisory Board

The National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. § 4321 *et seq.*) became effective on January 1, 1970. On February 20, 1970, the Secretary of the Interior appointed a Technical Advisory Board to advise the Interior Task Force and the Secretary on geologic factors, terrain suitability, and engineering design criteria needed by the Department as a prerequisite to issuance of a right-of-way and permits for the pipeline system.[38] The Board included personnel from the U.S. Geological Survey (USGS), Cold Regions Research and Engineering Laboratory of the U.S. Army Corps of Engineers (CRREL), BLM, and the Federal Water Pollution Control Administration. The Director of USGS was named chairman.

[33] Supporting documents, Vol. 4, Tabs 32 and 33.

[34] *Id.*

[35] Public Land Order 4760, 35 Fed. Reg. 424 (1970), supporting documents, Vol. 4, Tab 3.

[36] *E.g.*, Interior Permit Nos. 50020-SPO-5, 50020-SPO-8, F-12624.

[37] Senate Interior Appropriations Hearings for FY 72* at 136.

[38] Horton affidavit* at 21-22.

2. Incorporation of Menlo Park Working Group

Soon thereafter, the Chairman of the Technical Advisory Board incorporated, as a formal adjunct to the Board, the Menlo Park Working Group which had been established the preceding August. The charge to the Working Group was to perform detailed analyses of technical information submitted by TAPS and to supply the results of their evaluations to the Technical Advisory Board for consideration and advice to the Secretary. As collateral duties, the members of the Working Group were to carry out field investigations, conduct research projects, and prepare reports on subjects pertinent to the pipeline project.

3. Information Obtained from TAPS

In February 1970, a series of formal reports were submitted by TAPS to the Working Group. After a careful study of the report and after several exchanges of memoranda, the Working Group posed a series of 13 detailed questions to TAPS.[39] Topics covered included: soil stability, differential settlement, pipeline foundations, erosion control, seismic design, river scour depth, drainage patterns, computer thermal analysis, temperatures used for design, pipe characteristics, valves, pump stations, pipe corrosion, construction procedures, and monitoring and operations. In December answers were submitted by Alyeska (which had been formed in August 1970 to replace TAPS).[40]

During 1970, in a continuing effort to establish baseline data upon which technical and environmental evaluations could be made, the Department authorized the consortium to conduct soil explorations; surveys for material sites, communication sites, and route alignments; and centerline and profile surveys of the proposed pipeline and roads. This action was reported to Congress.[41]

[39] Admin. Rec.* 1.1.2.2.

[40] *Id.*

[41] Senate Interior Appropriations Hearings for FY 72* at 136-137.

4. Drafting of Technical Stipulations

In November of 1970, following several months of consultations and meetings with the company, the Working Group met to draft Technical Stipulations to complement the Environmental Stipulations issued in September 1969.[42] These Stipulations set forth the basic design and construction standards for the pipeline system.

5. Draft Environmental Impact Statement

On January 15, 1971, the Department of Interior published a "Draft Environmental Impact Statement for the Trans-Alaska Pipeline."[43] Agencies participating in the preparation of this Draft Statement included the Department of Interior's: Bureaus of Land Management, Indian Affairs, Sport Fisheries and Wildlife; the Geological Survey, the Office of Oil and Gas, and the Office of the Science Advisor; and the Environmental Protection Agency's Water Quality office.

The Draft Statement consisted of approximately 200 pages—substantially more detailed than any previous impact statement drafted by a federal agency pursuant to NEPA. The Statement contained: a description of the proposed pipeline system, a description of the Alaskan environment, an evaluation of the project's likely environmental impact, a discussion of alternatives, and a discussion of the benefits which would be derived from approval of the permits. The evaluation of the environmental impact[44] covered the following topics:

human resources (population, communities, culture, and recreation)
land use
fish and wildlife resources
vegetation resources

[42] Attachment to Draft Impact Statement, Admin. Rec.* 2.13.

[43] Admin. Rec.* 2.13; *see* 36 Fed. Reg. 622 (1971).

[44] Admin. Rec.* 2.13 at 101-150, 168-196.

water and air resources
geologic resources
transportation systems
power systems

A wide variety of alternatives were discussed,[45] including: modifications of the pipeline system as proposed; alternative routes (including trans-Canada); alternative transportation modes (such as icebreaking tankers, submarine tankers, a railroad, other forms of surface transportation, and airborne vehicles); and alternative energy sources.

6. Public Hearings on Draft Statement

At the same time the Draft Statement was made available, copies of the draft were sent to ten federal agencies,[46] and public hearings on the draft were scheduled for both Alaska (Anchorage) and Washington, D.C.[47] State and local agencies, other public agencies, and interested members of the public, organizations, and Alaskan Native villages were expressly invited to comment on:

1. The environmental impact of the proposed action;
2. Any adverse environmental effects which cannot be avoided should the proposal be implemented;
3. Alternatives to the proposed action;
4. The relationship between local short-term use of man's environment and the maintenance and enhancement of long-term productivity; and
5. Any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.[48]

Testimony was also invited on "such other environmental aspects of the proposed action as the witness deems appropriate." In addition, persons not able to attend either

[45] *Id.* at 151-167, 179-185.

[46] Final Env. Stmt.,* Vol. 6 at 2.

[47] 36 Fed. Reg. 622 (1971), supporting documents, Vol. 4, Tab 7.

[48] *Id.*

hearing, or persons wishing to supplement oral presentations, were given until March 8, 1971 to submit written statements for inclusion in the hearing record.[49] The time for filing supplementary statements was subsequently extended to March 22, 1971.[50]

At the opening of the hearings, the Secretary indicated that the draft would undergo substantial revision and invited the public to participate in the examination process.[51] He stated that he had directed that "every effort be expended to present the final document in an objective, carefully weighed and balanced discussion of the environmental impact of the proposed project." In particular, he directed the drafters of the final document "[1] to elaborate upon their treatment of the environmental impact of tanker transport from the Gulf of Alaska to the Puget Sound area, [2] to more carefully delineate the long-term impact of the construction upon the culture of the Alaskan Natives and [3] to expand upon their examination of alternatives to the proposed action." [52]

A total of 297 witnesses testified at the hearings. The verbatim transcripts of both hearings filled 10 volumes and totaled more than 2000 pages. In addition, over 4000 pages of additional statements were submitted for the record, and 3600 pages of written submissions were received after the hearing and prior to March 22.[53] Approximately 505 persons made oral or written presentations. In addition to some 70 federal, state and local governmental officials, about 435 private citizens commented on the project, most on their own behalf and some on behalf of organizational or corporate interests. Among the private citizens were

[49] 36 Fed. Reg. 947 (1971).

[50] 36 Fed. Reg. 4435 (1971).

[51] Admin. Rec.* 4.2.1.1 at 4.

[52] *Id.* at 6.

[53] Final Env. Stmt.,* Vol. 6 at 2.

190 people with specialized scientific expertise, including many with engineering, geological and biological backgrounds. Fifty-nine witnesses testified or filed submissions as representatives of environmental organizations; 15 represented civic organizations; 38 represented business interests; and 12 represented Alaskan Native groups.[54]

Of the 505 people providing oral or written submissions, approximately 230 expressed opinions favoring the proposed project;[55] about 222 disapproved of the project;[56] and 53 expressed no opinion either for or against.

The issues raised at the hearings and in the subsequent submissions included virtually every issue ever raised concerning the pipeline proposal. A compilation of brief summaries of just the issues presented by those opposing the project—with duplicative comments by different witnesses omitted—fills a volume of nearly 300 pages.[57]

[54] *See* statistics on hearings witnesses, supporting documents, Vol. 4, Tab 24. A few individuals testified at both hearings or filed later written submissions in addition to their oral testimony. Accordingly, the numbers given here involve a small degree of duplication and thus are approximate figures.

[55] 197 wholly favored the proposal and 34 expressed favorable sentiments with certain reservations. *Id.*

[56] 129 were wholly opposed and 93 were generally opposed but indicated willingness to consider the matter further upon certain stated conditions. *Id.*

[57] Supporting documents, Vol. 1. Comments covered: project design; tanker transport; impact on human resources; fish and wildlife; vegetation; water and air resources; geologic resources; impact of seismicity and oil spills; U.S. energy needs; alternative energy sources; non-development of North Slope oil; deferral of development; reduction of energy consumption; balance of payments; national security; economic benefits; maritime benefits; pipeline route, including trans-Canada routes and their common corridor aspects; alternative means of transportation; modifications of proposal; State of Alaska control over system; NEPA requirements and procedures; Stipulations; problems relating to the North Slope; international matters; other applicable laws; and land use planning.

Nine federal agencies and bureaus provided comments on the Draft Statement:[58]

Office of Emergency Preparedness
Federal Power Commission
Department of Defense
Department of Agriculture
Environmental Protection Agency
Department of Transportation
Department of Commerce
Department of Health, Education and Welfare
National Park Service

7. Project Description and Other Submissions by Alyeska

Following the hearings, the Department of Interior requested Alyeska to provide additional technical information on the project. Over the next several months, Alyeska prepared a comprehensive description and in July and August of 1971 Alyeska submitted to the Department its "Project Description of the Trans Alaska Pipeline System."[59] Copies were also furnished to plaintiffs and to the Canadian Embassy in Washington, D. C.

The Project Description consisted of three volumes of text numbering approximately 1350 pages, and 26 volumes of appendices, which included detailed descriptions, specifications, studies, and sketches and drawings. The Description contained sections on the pipeline, roads, airfields, pumping stations, terminal facilities, telecommunications, construction mobilization and support, testing and start-up, operation and maintenance, and contingency planning for oil spills. Detailed descriptions were given of the design, equipment, construction procedures, and special environmental measures. Many studies conducted by Alyeska and

[58] These comments are included at pages A-1 to A-107 of Volume 6 of the Final Environmental Impact Statement.

[59] Admin. Rec.* 1.1.2.3.

its consultants, dealing with a wide variety of topics,[60] were included in the appendices to the Project Description.

Because the Project Description was so voluminous, in early September Alyeska also submitted to Interior a 64-page Summary of the Project Description, with maps and diagrams.[61] Included in the Summary is a subject index to both the Summary and the Project Description.

In July 1971, Alyeska provided to Interior a description of the anticipated marine transport system between the Valdez terminal and West Coast ports.[62] This submission included information on the design and operation of the ships, oil loading and discharge operations, voyage description, contingency oil-spill plans, port navigation system, handling of ballast, and environmental impact. An additional submission in September 1971 responded to Interior's request for further information and clarification of certain aspects of the marine transport system.[63]

Also in September, Alyeska submitted to Interior the so-called "ARCO Memorandum,"[64] which summarized seven

[60] Included were studies and reports on such matters as: the design for a sample river crossing; special design at the Denali fault; thaw plug stability; pipeline foundation design; thermal analysis; thaw settlement and pipe bending; seismic design; detailed design for a sample section of the alignment; subsurface soil investigation; materials sources; landslides; flood hydrology of glacier-dammed lakes; road drainage; waste disposal; pumping station design; properties of the pipe; welding tests; environmental data; pressure control; storage tank design; ballast treatment facilities; revegetation; and oil spills and cleanup. A list of approximately 250 studies and reports prepared by Alyeska is included in Alyeska's Response to Interrogatories, April 24, 1972, supporting documents, Vol. 5, Tab 14. *See* Admin. Rec.* 1.1.4.3.

[61] Admin. Rec.* 1.1.2.4; supporting documents, Vol. 7.

[62] Admin. Rec.* 1.1.3.1.

[63] Admin. Rec.* 1.1.3.2.

[64] Admin. Rec.* 1.1.4.1; supporting documents, Vol. 2, Tabs 1-15.

detailed investigations of a possible trans-Canada pipeline system and discussed some of the environmental, economic and international aspects. The seven studies were submitted along with the Memorandum.

8. Interior Review of Project Description

Approximately 60 copies of the Project Description were distributed to an Ad Hoc Review Group of the Technical Advisory Board and the Menlo Park Working Group and to other interested federal and state government officials.[65] During August and September, 1971, the Ad Hoc Review Group, consisting of about 28 scientists and engineers from several government agencies undertook an exhaustive review of the Project Description.[66]

This review resulted in 156 specific technical comments or questions covering every phase of the project. The technical comments, and additional comments by the Technical Advisory Board and the Under Secretary, were transmitted to Alyeska on October 7, 1971.[67] Although the Project Description was characterized as "a significant step forward," additional information was requested and constructive criticism was provided which was "intended to lead to a revised document that satisfies the Department of Interior requirements to insure that any system authorized would be structurally secure and environmentally acceptable." [68]

[65] Final Env. Stmt.,* Vol. 6 at C-89, C-92 to C-93.

[66] *Id.* at C-89.

[67] *Id.* at C-87 to C-143.

[68] *Id.* at C-97. Topics covered by the technical comments included: seismic design, above and below ground construction modes, pumping station design, river crossings, cathodic protection, pipe insulation, bridge design, valve locations, gravel requirements, alignment criteria, inspection and monitoring procedures, construction procedures, compliance with Stipulations, thermal erosion control, access roads, cuts through permafrost, highway design, ballast treatment effluent, tsunami, communications system, leak detection, floods, thaw plug stability, differential settlement, gas line, drainage, maximum spill, waste treatment, air pollution, noise pollution, avalanche protection, and lightning protection. *See* table of contents to Alyeska's Responses to the Technical Comments* reproduced at supporting documents, Vol. 4, Tab 30.

Alyeska responded to each of the 156 technical comments, in a series of lengthy submissions during October-December, 1971.[69] Each of the responses was evaluated by the Technical Advisory Board and found to be acceptable for purposes of assessing environmental impact. The evaluation was transmitted to the team engaged in drafting the Final Environmental Impact Statement.[70]

9. Preparation and Release of Final Impact Statement

Shortly after the hearings on the Draft Impact Statement, a "102 Statement Task Force" was established by Interior to analyze the information submitted in response to the draft, to take whatever steps were necessary to obtain additional information, and to prepare the Final Environmental Impact Statement.[71] The Task Force was divided into three smaller Task Forces organized to deal with "the environment and impacts along the proposed land route (Task Force A), along the proposed marine route (Task Force B), and with the abiotic framework of alternative routes through Canada (Task Force C)." [72] Altogether, the "102 Task Force" included about 60 biologists, geologists, economists, and others, representing twelve Interior bureaus and offices and nine other federal departments and agencies.

Among those drafting the Final Statement, the following

[69] Admin. Rec.* 1.1.2.7.

[70] *See* Sanger dep.* at 100-101; Final Env. Stmt.,* Vol. 6 at C-148 to C-204.

[71] Final Env. Stmt.,* Vol. 6 at 4-5.

[72] *Id.* at 4.

fields of specialization were represented by one or more individuals:[73]

Anthropology, cultural
Archaeology
Biology, marine
Botany
Chemistry, plant
Climatology
Economics
—Land use
—Population resources
—Urban development
—Agriculture and Forestry
—Transportation
—Petroleum demand and consumption
Engineering
—Geological
—Hydrological
—Pipeline
—Seismic
Geology
—Coastline and marine
—Geological engineering
—Geomorphology
—Geophysics
—Mineralogy
—Seismology
Hydrology
Ichthyology
—Freshwater fisheries
—Marine fisheries
Oceanography
—Physical
—Biological
—Chemical
Ornithology
Zoology
—Marine mammals
—Large terrestrial mammals
—Small terrestrial mammals

[73] *See* table at supporting documents, Vol. 5, Tab 23.

David A. Brew was designated chairman of the 102 Statement Task Force. In a series of memoranda, he provided guidance to the Task Forces as to the standards and procedures by which they should assess the project's environmental impact.[74] Dr. Brew's memorandum of October 13, 1971, to the members of Task Forces A and B sets forth the methodology used in assessing the environmental impact of the proposed project:

> The methodology being utilized in this environmental impact analysis is based on a "general case" approach, in which a specific approach is designed for the specific environment and project at hand. This methodology requires systematic description of the environment, systematic description of the impacting project, identification and classification of sensitive elements of the environment, identification and classifiction of impacting factors inherent in the project, analysis of the interrelationships between the sensitive environmental elements and the impacting factors (including indirect and secondary feedback-type relations), prediction of the net effects of those relationships, and finally preparation of an environmental impact report describing the results of the impact analysis.[75]

Dr. Brew cautioned that the Final Statement must "properly accommodate all substantive comments and criticisms that were raised in the government agency review of the draft 102 statement and in the public hearings that were held on the draft statement."[76] Brew instructed the Task Forces to be as objective as possible:

> . . . [P]lease remember that our goal is an objective, rigorously-derived impact statement that is scientifically, technically, and legally defensible. As part of this, avoid statements that could be construed as advo-

[74] A number of these guidance memoranda are included in the Final Statement, Vol. 6 at C-1 to C-78.

[75] Final Env. Stmt.,* Vol. 6 at C-28.

[76] *Id.*

cative of any point of view and be prepared to defend all of your statements on the witness stand.[77]

Task Force A, charged with evaluating environmental impact along the pipeline right-of-way, was the largest of the Task Forces. It included representatives from seven Department of Interior bureaus (Indian Affairs, Sport Fisheries and Wildlife, National Park Service, Geological Survey, Office of Oil and Gas, Land Management, and Outdoor Recreation) and also five non-Interior agencies (Department of Commerce, Department of Transportation, Environmental Protection Agency, Water Resources Council, and the Corps of Engineers).[78] This group first developed a systematic description of the existing environment along the pipeline route. Then, following receipt of Alyeska's Project Description, it evaluated the impact of the proposed system on the environment. As further technical submissions were received from Alyeska, evaluations of those submissions were supplied to the Task Force by the chairman of the Technical Advisory Board and used in its analysis. The results of the Task Force's work are contained in Volumes 2 and 4 of the Final Environmental Impact Statement.

Task Force B was charged with evaluating impact along the marine segment of the proposed system. The composition of the Task Force permitted it to rely heavily on its own expertise. Included, in addition to Department of Interior personnel, were representatives of the Coast Guard, the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, National Oceanographic Survey, Water Resources Council, Environmental Data Service, Environmental Protection Agency and the Corps of Engineers.[79] The experience of these agencies in

[77] *Id.* at C-2.

[78] Final Env. Stmt.,* Vol. 6 at 4.

[79] *Id.* at 4-5.

evaluating marine transportation systems and in assessing the impact of tanker traffic on the marine ecosystem was utilized in developing the Final Statement.[80]

Task Force B analyzed Alyeska's marine submission and additional information submitted later at the request of the Task Force. It also had the benefit of submissions furnished by the Canadian government. In August 1971 the Canadian government tendered to the United States government an Aide-Memoire[81] expressing concern over the proposed tanker traffic in the Puget Sound region. Accompanying the Aide-Memoire were several evaluations of the impact potential on the marine ecology associated with the proposed system. Subsequently, an additional submission was received from Alyeska.[82] These documents, along with other information obtained from the public, were carefully considered during the review process. The product of Task Force B's efforts appears in Volumes 3 and 4 of the Final Statement.

Task Force C was charged with evaluation of alternative routes through Canada. When formed, it consisted solely of representatives from the U.S. Geological Survey. Subsequently it was expanded to include representatives of the Bureau of Sport Fisheries and Wildlife and the Bureau of Land Management.[83]

Task Force C examined all available research and studies on potential corridors for a trans-Canada pipeline. As a

[80] For example, the National Marine Fisheries Service provided baseline information on the marine ecosystem existing along the proposed navigation route. Brew dep.* at 127. The Coast Guard contributed a lengthy study on the potential for oil spillage along the proposed route and a critique on the effect of tanker traffic on the marine ecology. Admin. Rec.* 2.3. Information from these reports was incorporated into the Final Environmental Statement.

[81] Admin. Rec.* 2.1.5.1.

[82] Admin. Rec.* 1.1.4.6.

[83] Final Env. Stmt.,* Vol. 6 at 5.

result of this examination, a report was prepared in July 1971 describing the characteristics of these potential corridors.[84] Members of the Geological Survey and the Bureau of Sport Fisheries and Wildlife had conferences with their counterparts in Canada concerning the Canadian alternatives.[85] The Task Force used the "ARCO Memorandum" and attached studies, referred to above. (Additional actions in connection with evaluation of the Canadian alternative are described *infra* at 112 *et seq.* Task Force C's analysis appears in Volume 5 of the Final Statement.)

The Department's efforts in properly evaluating the environmental impact of the proposal were not only massive but comprehensive and detailed. The Department has estimated that the cost of these efforts was $9 million and 175 man-years.[86] Hundreds of individuals participated. Approximately 1300 studies, reports and other documents were utilized by the Department of Interior in the preparation of the Impact Statement.[87]

Throughout the preparation of the Final Statement, the Secretary maintained a close supervisory role over the process. Despite his many other duties and responsibilities, he met often with those in charge of the effort. During the final three months of preparation of the Final Statement, the Secretary tried to meet with Under Secretary Pecora several times each day. Every important aspect of the project was discussed at these meetings.[88] In addition, in the weeks just prior to publication of the Final Statement, the Secretary had approximately a dozen briefings

[84] Brew dep.* at 104-106; Admin. Rec.* 2.6.16.

[85] Brew dep.* at 113, 161-162; Horton dep.* at 140.

[86] Supporting documents, Vol. 4, Tab 26, and Vol. 5, Tab 9.

[87] See references listed throughout Final Impact Statement. For this purpose, Alyeska's many submissions have been counted together as one document.

[88] Morton dep.* at 55-56.

with Dr. Sanger, Dr. Brew, Dr. Vogely, and Mr. Horton.[89]

When the Statement was in next-to-final form all members of the Federal Task Force on Alaskan Oil Development were invited to read and comment on it.[90] The draft was also discussed with nine federal agencies.[91]

On March 20, 1972, after three years of reviewing the environmental implications of the pipeline system, the Department of Interior issued its "Final Environmental Impact Statement, Proposed Trans-Alaska Pipeline." Consisting of six volumes and approximately 2900 pages, the Impact Statement far surpassed any previous effort by a federal agency to assess the environmental impact of a project under its auspices or authority. The Department's appraisal of the existing environment alone took up 913 pages in two volumes[92] and its assessment of the impact of the proposed project on this environment covered more than 600 pages.[93] All reasonable alternatives were thoroughly discussed in a volume of approximately 500 pages.[94] The remaining 850 pages included: a description of the project and related systems;[95] the Stipulations on which the granting of the permits would be conditioned;[96] a review of the procedures followed in drafting the Final Statement, and of the comments provided by federal, state and

[89] *Id.* at 56.

[90] Final Env. Stmt.,* Vol. 6 at 7.

[91] Statement of Reasons* at 16. *See infra* at 124-25.

[92] Volumes 2 and 3.

[93] Volume 4.

[94] Volume 5.

[95] Volume 1 at 4-86.

[96] Volume 1, App. at 1-62. These Stipulatiions, by far the most stringent governmental requirements ever imposed on a project of this nature, are described *infra* at 50 *et seq.*

local agencies, and the public;[97] and a summary of the Department's evaluation of the project's environmental impact and the impact of alternatives.[98]

10. Economic and Security Analysis

In addition to the environmental impact analysis undertaken by Task Forces A, B, and C, a separate Task Force was established under the direction of Dr. William Vogely, Director of Interior's Office of Economic Analysis, to address issues of economics and national security. Specifically, this Task Force was asked to consider: petroleum supply and demand; the economics of alternative sources of energy, alternative sources of crude oil and alternative methods of bringing North Slope oil to market; impact of the various alternatives on the national security, the balance of payments, resource costs, and the merchant marine; economic impacts on the State of Alaska; and the size and distribution of costs and returns to various sectors.[99]

Evaluation of the various alternatives was aided by reports furnished by other federal agencies, other bureaus in the Department of the Interior and by private consultants.[100] The Defense and State Departments and the Office of Emergency Preparedness submitted to the Task Force their expert opinions on the need for North Slope oil and the national security implications of the proposed alternatives for delivering the oil to the lower 48 states.[101] The Council of Economic Advisers and the Treasury and Commerce Departments submitted information on the economic implications associated with North Slope oil development

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[97] Volume 6.

[98] Volume 1 at 87-322.

[99] Admin. Rec.* 3.3.1.

[100] Final Env. Stmt.,* Vol. 6.

[101] Admin. Rec.* 3.3.2 at M-1, M-2, M-5.

and alternative transportation systems.[102] The Department's Bureau of Mines, U.S. Geological Survey, and the Office of Oil and Gas contributed their expertise on energy supply and demand.[103] An analysis of future demand for crude oil was prepared for the Task Force by Professor Richard L. Gordon of Pennsylvania State University.[104] In considering the economic impact of the alternatives on the State of Alaska, in addition to submissions by the State, the Task Force utilized a study made by the Institute of Social, Economic and Government Research of the University of Alaska.[105] Considerable emphasis was directed toward the economic and national security implications of the trans-Canada pipeline alternative[106] and toward a broad class of energy alternatives.[107]

The review effort culminated in a three volume report entitled "An Analysis of the Economic and Security Aspects of the Trans Alaska Pipeline," which was released simultaneously with the Final Environmental Impact Statement. The report finds that development of North Slope oil as soon as possible is an important national objective and that a trans-Alaska pipeline is preferable to other transportation alternatives from the standpoint of national security, resource costs, impact on the merchant marine, and economic impact on the State of Alaska.[108]

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[102] *Id.* at K-3, M-3, M-4.

[103] *Id.* at J-3, L-2, L-3.

[104] *Id.* at L-1.

[105] Admin. Rec.* 3.3.1 at E-1. The study itself is included at Admin. Rec.* 3.1.

[106] *E.g.*, Admin. Rec.* 3.3.1 at C, H, I; Admin. Rec.* 3.3.2 at J-3.

[107] Admin. Rec.* 3.3.3.

[108] Admin. Rec.* 3.3.1 at 5-9. *See also infra* at 141, *et seq.*

11. Review of Final Statement

On the day the Final Impact Statement and Economic and Security Analysis were published, the Department of Interior published a "Notice of Availability" in the Federal Register.[109] In the notice the Department stated that the Final Statement would be available for public inspection at a number of locations. In addition, the public was informed how the Final Impact Statement, the Economic and Security Analysis and a Coast Guard oil spill study could be purchased. A list of other documents available for public inspection was provided. The notice stated that no action would be taken on the permit application before May 4, 1972.

In addition to the Federal Register notice, the Department took other steps to assure public scrutiny of the document.[110] More than two dozen sets of the full nine volumes were sent to interested members of Congress, ten sets were given to lawyers for the plaintiff environmental groups, 102 copies were made available to the press, and 585 copies were sent to depository libraries throughout the country. In all, 2,460 full sets were printed and distributed, or made available, to public officials, interested organizations, the press, and the public.

Pursuant to NEPA and the regulations promulgated thereunder, the Final Statement was immediately forwarded to the Council on Environmental Quality.[111] The 45-day period which the Secretary of Interior had provided prior to decision was two weeks longer than the period required by CEQ Guidelines and DOI regulations for CEQ review.[112]

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[109] 37 Fed. Reg. 5837 (1972), supporting documents, Vol. 4, Tab. 11.

[110] *See* supporting documents, Vol. 4, Tab 12.

[111] Ten copies were provided to CEQ. *Id.*

[112] Final CEQ Guidelines* § 10(b); DOI Manual* 516.2.9.C(3).

On the day following the publication of the Statement, the Secretary, in an interview on network television, invited further public comment on the trans-Alaska pipeline proposal. He stated that he "would like to hear from everybody who has something to say about it" and that if the public "will let us know what they think, we will incorporate these comments into the decision-making process."[113]

A significant number of people submitted comments on the proposed project. In addition to many letters simply indicating approval or disapproval of the proposal, the Department received a number of lengthy submissions. These included comments by environmental organizations, Alaskan Natives, Alaskan fishermen, the State of Alaska, Department of Environmental Conservation, business interests, and interested individuals. A major submission was filed by the environmental groups which are plaintiffs in this action. Comprising four large volumes, this submission included comments by approximately 60 individuals with engineering, biological, economic, legal, and other backgrounds.[114]

Officials of the Department reviewed all of the submissions received, analyzed them for significant new material, and prepared summaries of these documents for presentation by Under Secretary Pecora to the Secretary.[115]

As the comments were received by the Department, the Secretary discussed them with Dr. Pecora.[116] After the summaries of these comments were prepared, they were reviewed by the Secretary, and further consultations with Dr. Pecora were held.[117]

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[113] Supporting documents, Vol. 4, Tab 23.

[114] Admin. Rec.* 4.3.2.1.

[115] Admin. Rec.* 2.15; supporting documents, Vol. 4, Tab 21.

[116] Morton dep.* at 58-59.

[117] *Id.*

12. Decision-Making Process

In addition to reviewing the comments on the Final Impact Statement, the Secretary took other steps in final preparation for reaching his decision to grant or deny the permits. Primarily, he took measures to assure himself that the alternatives to the pipeline project had been fully evaluated.

Early in the 45-day review period, the Secretary directed Deputy Under Secretary Horton to have a document prepared which placed the trans-Canadian alternative in the most favorable light possible, in order to insure that the advantages of this alternative received appropriate consideration.[118] In accordance with the Secretary's instructions, a memorandum was prepared,[119] which the Secretary discussed with the Secretaries of State, Treasury, Transportation and Commerce, and with the President.[120] Indeed, the Secretary testified that he consulted with, and sought the advice of, the members of the Cabinet on numerout occasions during the decision period.[121]

Additional memoranda prepared for the Secretary included one prepared by Dr. Sanger on March 31, 1972, discussing the Mackenzie Valley alternative pipeline route and the extensions of the route south of Edmonton,[122] and an option paper, dated May 3, 1972, submitted by the Assistant Secretary for Program Policy discussing the choice of decisions open to the Secretary.[123]

Throughout this period, the Secretary met almost daily with Dr. Pecora to discuss alternatives and other aspects

[118] *Id.* at 24-27.

[119] Supporting documents, Vol. 2, Tab 23.

[120] Morton dep.* at 26-27.

[121] *Id.* at 60-62.

[122] Supporting documents, Vol. 2, Tab 20.

[123] Supporting documents, Vol. 2, Tab. 19.

of the project.[124] On May 10, 1972, the Secretary discussed his impending decision with the Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality.[125]

On May 11, 1972, after full consideration of the proposal, its consequences, and the available alternatives, the Secretary of Interior anounced his intention to grant the permits for the proposed trans-Alaska pipeline system. In a 45 page "Statement of Reasons for Approval,"[126] the Secretary explained in detail his reasons for reaching this decision. After discussing the policies of the National Environmental Policy Act of 1969; the United States energy and crude oil posture; choice of market for the North Slope oil; the feasibility, timing and capacity, and economic and social consequences of the proposed trans-Alaska proposal; alternative methods of transporting the North Slope oil to market; and further deferral of action on the permits; the Secretary concluded that:

(1) The national interest requires the rapid development of North Slope oil;

(2) It is in the national interest to have a pipeline for the transport of North Slope oil under the total jurisdiction, and for the exclusive use, of the United States;

(3) Based on an evaluation of all factors, including national policy and the impact on the quality of the human environment that is both certain and threatened, the Alyeska proposal is, from the standpoint of the overall national interest, acceptable and preferable to any other alternative that has been suggested for transporting North Slope oil;

(4) Rejection of the Alyeska proposal or any further

[124] Morton dep.* at 29-30, 59-60.

[125] *Id.* at 37.

[126] Admin. Rec.* 6; supporting documents, Vol. 3, Tab 22.

delay in making a determination with respect to that proposal is not in the national interest;

(5) Approval of the proposal and granting the permits necessary therefor is in the national interest and is consistent with all the policies set forth by Congress, including those contained in the National Environmental Policy Act of 1969; and

(6) Approval of the State proposal is in the national interest as well as the interest of the State of Alaska and is consistent with all the policies set forth by Congress, including those contained in the National Environmental Policy Act of 1969.[127]

A list of documents containing information considered by the Secretary in reaching his decision is included in the Statement of Reasons* at 6-7.

13. Congressional Review of the Secretary's Decision

One week after the Secretary's decision, following three years of study of the proposal by the Department and two rounds of public hearings, Senator Proxmire, Chairman of the Joint Economic Committee (JEC) of Congress, invited Secretary Morton to appear before the JEC "and provide the Congress with a substantative explanation of the considerations that caused [him] to make the decision [he] made."[128] The Secretary was also asked to respond to a list of questions about his decision.

Hearings were held by the Committee in June.[129] Senator Proxmire characterized the Secretary's public statement on May 11 as "inadequate" and announced that the Committee would "inquire whether the Interior Department's evaluation process was adequate, objective and

[127] Statement of Reasons* at 44-45.

[128] Supporting documents, Vol. 6, Tab 3.

[129] *See* supporting documents, Vol. 6, Tab 5.

fair."[130] Early in the hearings a number of witnesses opposing the Secretary's decision testified. These included: Richard D. Nehring, an economist who resigned from the Department of Interior shortly after the Secretary's decision was announced; Charles Cicchetti, the author of a critique of the Final Environmental Impact Statement which was filed with the Department by the Environmental Defense Fund; David Anderson, a member of the Canadian Parliament and an Intervenor-Plaintiff in this lawsuit; and S. David Freeman, also a critic of the Final Impact Statement.

Secretary Morton testified on the last day of the hearings.[131] Following his testimony, other federal and state officials expressed support for the trans-Alaska pipeline proposal, including Under Secretary of State John N. Irwin, II, William A. Egan, Governor of Alaska, Senators Hansen of Wyoming and Stevens of Alaska, and Representative Begich of Alaska.

(Caption Omitted)

BILL OF COSTS

(February 23, 1973)

The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth ("plaintiffs"), herewith submit this itemized and verified BILL OF COSTS for the preparation and presentation of their oral argument in this Court on October 6, 1972, and the preparation and printing of the Mineral Leasing Act brief, National Environmental Policy Act brief, and Reply brief submitted by them to this Court:

1. *Clerk's fees*

Notice of Appeal	$ 5.00

[130] JEC Hearings* at 212-213.

[131] The Secretary's answers to Senator Proxmire's May 19 questions, and the portion of the JEC Hearings transcript containing the Secretary's testimony are included at supporting documents, Vol. 6, Tabs 1 and 4.

Preparation and transmission of the Record	11.50	
Filing fee	25.00	
		$ 41.50

2. *Printing of briefs and reproduction costs of exhibits and appendices*

Printing of briefs	$ 3,143.20	
Reproduction of appendices and exhibits to briefs:		
Covers	$ 120.00	
Reproduction	261.00	
Binding	180.18	
Tabs	143.00	
Cardboard blow-up of Alyeska construction technique	85.00	
	789.18	
		$ 3,932.38

3. *Expense of stenographic transcript of district court proceedings (August 14-15, 1972)* 202.50

SUBTOTAL (Items 1-3) $ 4,176.38

4. *Expenses incurred in collecting expert comment on Final Impact Statement*

Purchases of Final Impact Statement	$ 904.10	
Xeroxing at $.10 per page	1,638.80	
Postage	318.02	
Telephone	560.85	
Reproduction for public experts comments	897.25	
		$ 4,319.02

5. *Cost of depositions* $ 2,556.25

SUBTOTAL (Items 4-5) $ 6,875.27

6. *Attorneys' Time and Labor Researching and Writing Mineral Leasing Act Brief and Mineral Leasing Act Portion of Reply Brief*

Dennis M. Flannery	562 hrs. at $____ per hr.	$_____
Saunders C. Hillyer	90 hrs. at $____ per hr.	$_____
James N. Barnes	80 hrs. at $____ per hr.	$_____
John F. Dienelt	30 hrs. at $____ per hr.	$_____

SUBTOTAL 762 hours

7. *Attorneys' Time and Labor from March 20, 1972 to May 4, 1972 collecting expert comment on Impact Statement*

Dennis M. Flannery	324 hrs. at $____ per hr.	$_____
John F. Dienelt	240 hrs. at $____ per hr.	$_____
Thomas B. Stoel, Jr.	90 hrs. at $____ per hr.	$_____
Saunders C. Hillyer	324 hrs. at $____ per hr.	$_____
James N. Barnes	324 hrs. at $____ per hr.	$_____

SUBTOTAL 1,302 hours

8. *Attorneys' Time and Labor from May 12, 1972 to August 7, 1972*

Dennis M. Flannery	518 hrs. at $____ per hr.	$_____
John F. Dienelt	568 hrs. at $____ per hr.	$_____
Thomas B. Stoel, Jr.	325 hrs. at $____ per hr.	$_____
Saunders C. Hillyer	476 hrs. at $____ per hr.	$_____
James N. Barnes	380 hrs. at $____ per hr.	$_____

SUBTOTAL
2,267 hours

9. *Attorneys' Time and Labor Supervising the Printing of Briefs and the Reproduction of Exhibits and Appendices for Submission to this Court and preparing for Oral Argument in this Court*

Dennis M. Flannery	83 hrs. at $____ per hr.	$_____
John F. Dienelt	33 hrs. at $____ per hr.	$_____
Thomas B. Stoel, Jr.	8 hrs. at $____ per hr.	$_____

SUBTOTAL
124 hours

The Court's attention is also invited to the attached Affidavit of Counsel and the accompanying Memorandum in Support of Award of Expenses and Attorneys' Fees.

I, Dennis M. Flannery, do hereby verify that, to the best of my knowledge and belief, the foregoing statement of expenses and time and labor is correct; that the expenses and time and labor were necessarily incurred in the

case; and that the services for which charges have been made were actually and necessarily performed.

/s/ Dennis M. Flannery
DENNIS M. FLANNERY

(SUBSCRIPTION OMITTED)

Affidavit of Counsel

CITY OF WASHINGTON)
) ss
DISTRICT OF COLUMBIA)

Dennis M. Flannery, being duly sworn according to law, upon his oath does despose and state as follows:

1. Since August 1971 I have been responsible for the day to day administration of the Alaska Pipeline litigation for The Wilderness Society, Environmental Defense Fund, Inc., and Friends of the Earth. In this capacity, I have had ultimate authority to approve all disbursements and have coordinated the efforts of co-counsel, student legal interns, public experts, and non-legal staff. In submitting the attached BILL OF COSTS, I have personally reviewed the records and invoices maintained by The Center for Law and Social Policy. The expenses listed in Items 1-5 are accurate and are supported by invoices or contemporaneous records that I have examined.

2. I believe that a detailed explanation of Items 4-5 (which are not self-explanatory) and the attorneys' time computations (Items 6-9) would be of assistance to the Court. The explanation contained in the succeeding sections of this Affidavit is intended to be factual, setting forth only the basis of the various computations. The legal theories on which plaintiffs base their claim for recovery are set forth in the accompanying Memorandum in Support of Award of Expenses and Attorneys' Fees ("Memorandum").

3. *Expenses incurred in collecting expert comment on the Final Impact Statement* (Item 4):

a. On March 20, 1972, the Interior Department released the Final Impact Statement, announced it was setting aside only 45 days for public comment (such comments being due by May 4, 1972), and furnished plaintiffs, free of charge, ten copies of the statement.

b. In the preceding months, some sixty experts (located across the United States and Canada) had been contacted by plaintiffs' counsel and had indicated a willingness to provide comments on the Impact Statement. (No recovery is being requested of this Court for the substantial expenses and attorneys' time incurred in this effort prior to March 20, 1972.)

c. The ten copies of the Impact Statement provided by the Interior Department were, of course, insufficient for the number of experts who had volunteered their assistance. Plaintiffs' counsel, therefore, purchased from the Government as many additional sets as were available (they expended a total of $904.10, with each set costing in excess of $40.00); and they xeroxed large portions of the Impact Statement for the remaining experts ($1,638.80).

d. Because of the extremely short (we would characterize it as "unrealistic") time allowed by the Interior Department for public comment, plaintiffs' counsel worked extremely long hours (see paragraph 7a, *infra*) during the period March 20-March 25, distributing all or part of the Impact Statement to the various experts, and speeding the statement to them by first class air mail ($318.02).

e. In the succeeding weeks between March 27 and May 4 (when plaintiffs' counsel submitted the expert comments they had collected to the Interior Department), plaintiffs' counsel made numerous long distance telephone calls to the various experts to confirm their receipt of the statement, to assist in the preparation of their comments, and otherwise to assure that the extremely short deadline would not result in a lack of input to the Interior Department from independent experts ($560.85). The result of this

effort is contained in the four volumes of expert comment contained at Ad. Rec. 4.3.2.1. Plaintiffs had these comments professionally duplicated, since the expense incurred thereby was considerably less than would have been incurred by in-house reproduction at the Center for Law and Social Policy. The minimum number of copies for which such savings could be incurred was 25. Plaintiffs have, accordingly, requested recovery of the expense of 25 copies ($897.25).

g. For the legal basis of plaintiffs' claim for recovery of these expenses, see Memorandum, pp. 13, 24-25.

4. *Expense of depositions* (Item 5)

a. The only deposition-related expense for which plaintiffs request recovery from this Court is the expense to plaintiffs of the original and one copy of the seven depositions taken between May 18, 1972, and June 24, 1972 (Messrs. Horton, Brew, Sanger, Vogely, Carter, Nehring, and Secretary Morton), which amounts to $2,556.25.

b. For the legal basis of plaintiffs' claim for the recovery of these expenses, see Memorandum, pp. 14, 24-25.

5. *General Comments Concerning Attorneys' Time and Labor* (Items 6-9)

a. No award is being requested for the substantial and indispensable effort (amounting to several hundred man/woman-hours) expended by student legal interns of the Center for Law and Social Policy, Environmental Defense Fund, Inc., and Natural Resources Defense Council, Inc.; no award is being requested for the several hundred man/woman hours of overtime contributed by the non-legal staffs of the plaintiff organizations and the Center for Law and Social Policy; and no award is being requested for the invaluable assistance of the distinguished "of counsel" in the case.

b. A brief resume of the lawyers for whose efforts a fee award is being requested is attached to this Affidavit.

c. Plaintiffs' counsel have not kept hourly records of time spent on the Alaska Pipeline litigation. I can, however, verify, on the basis of personal knowledge and information and belief, that the hours listed in the BILL OF COSTS substantially understate the hours actually expended by the lawyers involved. I can state further that the task of reconstructing the hours expended by the lawyers on the case was not difficult since each lawyer spent all or practically all of his time on the Alaska Pipeline litigation during the periods covered. Thus:

(1) I worked exclusively on the Alaska Pipeline litigation, except for the following periods: March 8-April 10, when I also prepared the appellees' brief in the unrelated cases of *Gayer* v. *Laird*, No. 71-1934, and *Ulrich* v. *Laird*, No. 71-1935, (now under submission to this Court); June 5-12 and June 15-18, when I was on vacation.

(2) Mr. Dienelt worked exclusively on the Alaska Pipeline litigation except for the following periods: March 27-April 5, when he prepared a brief to the Environmental Protection Agency in connection with the administration proceedings regarding cancellation of DDT; May 15-16, when he presented oral argument before the EPA in the DDT case; and June 10-17, when he was on vacation.

(3) Mr. Stoel, except for routine administrative matters, worked exclusively on the Alaska Pipeline litigation. And, Messrs. Hillyer and Barnes worked exclusively on the Alaska Pipeline litigation.

6. *Attorneys' Time and Labor on Mineral Leasing Act* (Item 6)

a. During the period January 5, 1972 to March 7, 1972, I devoted most of my efforts (together with those of a student legal intern, Kenneth Kamlet) to researching and drafting what ultimately became plaintiffs' Mineral Leasing Act brief. I conservatively estimate that during the time I spent an average of 48 hours a week on this enterprise, for a total of 432 hours. During this same

period, Messrs. Barnes and Hillyer performed a conservatively estimated, 50 hours each of research at my direction on an as-needed basis. In addition, Mr. Dienelt spent a conservatively estimated 20 hours reviewing early drafts of the brief and making editorial suggestions.

b. Commencing on May 8, 1972, while awaiting the decision of Secretary Morton, work was renewed on the Mineral Leasing Act Brief. On the day Secretary Morton's decision was announced (May 11, 1972), Mr. Hillyer, Mr. Barnes, and I worked (with two typists and a Xerox operator) until 4:00 a.m. the following morning putting the brief in final form for filing on May 12, 1972. I estimate conservatively that I worked 50 hours on the Mineral Leasing Act Brief during the period May 8, 1972-May 12, 1972; and that Mr. Hillyer and Mr. Barnes each worked 30 hours.

c. During the period July 20, 1972-August 6, 1972, I conservatively estimate that I spent 80 hours researching and writing the Mineral Leasing Act portions of plaintiffs' Reply Brief. Mr. Hillyer spent 10 hours (conservatively estimated) doing research at my direction. Mr. Dienelt spent 10 hours (conservatively estimated) assisting in editing the Mineral Leasing Act portions of the Reply Brief.

7. *Attorneys' Time and Labor from March 20, 1972 to May 4, 1972* (Item 7)

a. During the week March 20, 1972 to March 25, 1972, Mr. Hillyer, Mr. Barnes and I worked an average of fourteen hours a day (conservatively estimated) securing impact statements or making copies thereof, dispatching them to experts, and maintaining telephone contact with those experts. Each of us, therefore, spent 84 hours on that effort. During March 20-March 24, Mr. Dienelt worked an average of 12 hours a day (conservatively estimated), for a total of 60 hours.

b. In the ensuing six week period (March 27-May 4) Messrs. Hillyer, Barnes and I spent an extremely con-

servative estimate of 40 hours a week carrying out the functions described at para. 3e, *supra*. During this period, each therefore expended 240 hours on brief-related work. During the same period, Mr. Dienelt spent a conservatively estimated 40 hours a week on brief-related work for four-and-one-half weeks, for a total of 180 hours and Mr. Stoel spent a conservatively estimated 90 hours on brief-related work.

8. *Attorney's Time and Labor from May 12, 1972 to August 7, 1972* (Item 8)

a. From May 12, 1972 to June 24, 1972, I worked (except for the period June 5-11 and June 15-18 when I joined my wife and children on vacation) preparing for and taking four of the seven depositions listed in the BILL OF COSTS; preparing factual chronologies and organizing documents for use in brief writing; and preparing structural outlines of the NEPA brief. An extremely conservative estimate of the hours expended by me in these endeavors is 232 hours (computed on the basis of 8 hours a day, 6 days a week). During the same period (with the exception of May 15-16 and June 10-17 for Mr. Dienelt), Messrs. Dienelt, Stoel, Barnes and Hillyer performed the same range of functions as I did. A conservative estimate for Mr. Dienelt is 232 hours; for Mr. Stoel, 215 hours; for Mr. Barnes, 200 hours; and for Mr. Hillyer, 104 hours.*

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* On May 26, 1972, the defendant oil companies served on plaintiffs an exhaustive set of interrogatories designed to explore the adequacy of their standing under *Sierra Club* v. *Morton*, 405 U.S. 727 (1972). In plaintiffs' view, the information requested in the interrogatories went far beyond the *de minimis* membership disclosure requirements contemplated by the *Sierra Club* decision. But to assure that the pipeline case would be heard on the merits, I placed Mr. Hillyer in charge of preparing a comprehensive response to these interrogatories. This required extensive communication with plaintiffs' officers and members across the country. Plaintiffs' response to these interrogatories was filed on June 26, 1972. I estimate conservatively that Mr. Hillyer expended some 100 hours on this endeavor and Mr. Dienelt more than 20 hours. Because the standing question was never again raised by defendants (and is not, therefore, addressed in the briefs), no claim is being made for any award for these efforts. Nor is an award being requested for the efforts expended by plaintiffs' counsel during this period in drafting and filing their updated Supplemental Complaint, which was filed on May 16, 1972.

b. From June 25, 1972 to July 13, 1972, Messrs. Dienelt, Hillyer, Barnes, and I each spent a conservatively estimated 228 hours (an average of 12 hours a day, including Saturdays and Sundays) preparing the NEPA brief, for a total of 912 hours. During this same period, Mr. Stoel spent a conservatively estimated 110 hours on the same endeavors.

c. During the weekend July 14, 15, 16, Messrs. Dienelt, Hillyer, Barnes and I spent a total of 48 hours each (together with numerous typists, clerks and legal interns) preparing the NEPA brief for submission to the District Court on July 17, 1972, for a total of 192 hours.

d. During the week of August 1-August 7, Mr. Dienelt spent 60 hours writing the NEPA portion of the Reply Brief and I spent 10 hours editing that portion.

9. *Attorney's Time and Labor Preparing Materials and Oral Argument for this Court* (Item 9)

In the period between September 1, 1972, when this Court granted plaintiff's Motion for an expedited hearing and October 6, 1972, when oral argument was heard, I spent 40 hours preparing materials for submission to the Court, 40 hours preparing for oral argument, and 3 hours at oral argument (for a total of 83 hours). Messrs. Dienelt and Stoel spent 33 and 8 hours respectively, assisting in the preparation for and attending the oral argument.

10. For the legal basis on which plaintiffs rest their request for attorneys' fees, see Memorandum, pp. 15-27.

/s/ Dennis M. Flannery
DENNIS M. FLANNERY

(Subscription Omitted)

Lawyers' Resumes

DENNIS M. FLANNERY—B.A. Fordham University—1961 (Summa cum laude, Phi Beta Kappa); LL.B. University of Pennsylvania—1964 (First in class standing, Summa cum laude, Editor-in-Chief, Law Review, Order of the Coif); Law Clerk, Chief Justice Earl Warren—1964-1965; Captain Third Infantry Division, United States Army—1965-1967 (Army Commendation Medal); Consultant, Bureau of the Budget—October 1967-January 1968 (White House Task Force on Crime); Attorney, Wilmer, Cutler & Pickering, Washington, D.C.—January 1968-August 1971; Attorney, Center for Law and Social Policy—August 1971-present. Member District of Columbia and New York Bars.

JOHN F. DIENELT—B.A. University of Virginia—1965 (First in class standing, Phi Beta Kappa, Danforth Fellowship); M.A. Fletcher School of Law & Diplomacy—1966; LL.B Yale Law School—1969 (Managing Editor Law Journal and Order of the Coif); Law Clerk, District Judge Gerhard A. Gesell—1969-1970; Assistant to the Solicitor General, United States Department of Justice—1970-1971; Washington Counsel, Environmental Defense Fund—August 1971-present. Member District of Columbia Bar.

THOMAS B. STOEL, JR.—B.A. Princeton University—1962 (Cum laude, Sigma Xi); LL.B Harvard University—1965 (Fourth in class standing, Magna cum laude, Note and Supreme Court Note Editor, Law Review); Rhodes Scholar, Oxford University—1965-1967; Law Clerk, Justice Harlan—1967-1969; Staff Attorney, Cabinet Task Force on Oil Import Control—July 1969-February 1970; Assistant Director-Deputy Director, Cabinet Committee on Education—April 1970-December 1970; Acting Executive Assistant-Special Assistant, Director Office of

Management and Budget—December 1970-August 1971; Co-Founder and Staff Attorney, Natural Resources Defense Council—September 1971-present. Member District of Columbia Bar.

SAUNDERS C. HILLYER—B.A. University of Virginia—1965 (Honors Graduate, Phi Beta Kappa); LL.B Yale Law School—1968; Peace Corps Volunteer—July 1968-May 1970; United States Forest Service—June 1970-September 1970; Attorney, Alaska Pipeline case—February 1971-October 1972. Member District of Columbia Bar.

JAMES N. BARNES—B.A. Northwestern University—1966; LL.B University of Michigan—1970 (Editor, Law Review and Order of the Coif); Law Clerk, District Judge John H. Pratt—1970-1971; Attorney, Alaska Pipeline case—October 1971-September 1972. Member District of Columbia Bar.